12-13-90
Vol. 55 No. 240

federal register

Thursday
December 13, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

12-13-90
Vol. 55 No. 240
Pages 51265-51384

federal register

Thursday
December 13, 1990

Briefing on How To Use the Federal Register
For information on a briefing in Atlanta, GA, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 55 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:	
Paper or fiche	**202-783-3238**
Magnetic tapes	**275-3328**
Problems with public subscriptions	**275-3054**
Single copies/back copies:	
Paper or fiche	**783-3238**
Magnetic tapes	**275-3328**
Problems with public single copies	**275-3050**

FEDERAL AGENCIES

Subscriptions:	
Paper or fiche	**523-5240**
Magnetic tapes	**275-3328**
Problems with Federal agency subscriptions	**523-5240**

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ATLANTA, GA

WHEN: January 11, at 9:00 a.m.
WHERE: Centers for Disease Control
1600 Clifton Rd., NE.
Auditorium A
Atlanta, GA (Parking available)
RESERVATIONS: 1-800-347-1997.

Contents

Federal Register
Vol. 55, No. 240
Thursday, December 13, 1990

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 55, No. 240
Thursday, December 13, 1990

Presidential Documents

Title 3—

The President

Presidential Determination No. 90–42 of September 30, 1990

Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1961, as Amended

Memorandum for the Secretary of State

Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1961, as amended, 22 U.S.C. 2601(b)(1), I hereby designate persons fleeing Kuwait and Iraq due to the current military crisis in the Persian Gulf as qualifying for assistance under Section 2(b)(2) of that Act, and determine that such assistance will contribute to the foreign policy interests of the United States.

You are directed to inform the appropriate committees of the Congress of this determination and the obligations of funds under this authority, and to publish this determination in the **Federal Register**.

THE WHITE HOUSE,
September 30, 1990.

[FR Doc. 90–29400
Filed 12–11–90; 3:12 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 91-9 of December 4, 1990

Determination Pursuant to Section 545 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991

Memorandum for the Secretary of State

Pursuant to Section 545 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, (the "Act") (Public Law 101-513), I hereby certify that the withholding of funds to the multilateral development banks and other international organizations and programs, pursuant to the limitation contained therein prohibiting the obligation of funds appropriated by the Act to finance indirectly any assistance or reparations to certain specified countries, is contrary to the national interest.

You are authorized and directed to publish this determination in the **Federal Register**.

THE WHITE HOUSE,
December 4, 1990.

[FR Doc. 90-29425
Filed 12-11-90; 4:48 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 55, No. 240
Thursday, December 13, 1990

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5 and 7

[Docket No. 90-21]

Rules, Policies, and Procedures for Corporate Activities; Payment of Dividends

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending two interpretive rulings in 12 CFR part 7, and promulgating them as regulations as part of 12 CFR part 5. The amendments revise and clarify certain OCC interpretations of statutes that principally govern the payment of dividends by national banks (12 U.S.C. 56 and 60). The purpose of these amendments is to make the calculation of the dividend-paying capacity of national banks consistent with regulatory reporting and generally accepted accounting principles (GAAP) with respect to the treatment of the allowance for loan and lease losses (ALLL). Specifically, the amendments clarify that (1) neither the ALLL nor provisions to the ALLL is considered an element of either "undivided profits then on hand" or "net profits," (2) a portion of the capital surplus account may be used as "undivided profits then on hand," depending on the composition of that account, and (3) the dividends on preferred stock are not subject to the limitations of 12 U.S.C. 56 but are subject to the constraints of 12 U.S.C. 60. In addition, the OCC clarifies that in computing "net profits" under 12 CFR 5.62(c) of the final rule a national bank should continue to use the net income amount reported in its Reports of Condition and Income. While the final rule is effective December 13, 1990, with respect to the dividend calculations under § 5.62(c) implementation may be delayed as provided in § 5.62(f).

EFFECTIVE DATE: December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Ronald Shimabukuro, Senior Attorney, Legal Advisory Services Division, (202) 447-1883; Marietta Perkins, National Bank Examiner, Office of the Chief National Bank Examiner (202) 447-0468; or William J. Lewis, Professional Accounting Fellow, Office of the Chief Accountant, (202) 447-0471, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The OCC published in the Federal Register a notice of proposed rulemaking (NPRM) on August 16, 1989 (54 FR 33711), and a supplemental notice of proposed rulemaking (supplemental NPRM) on October 16, 1989 (54 FR 42306). In the August 16 NPRM, the OCC proposed to amend Interpretive Rulings 7.6125 (12 CFR 7.6125) and 7.6100 (12 CFR 7.6100) which concern the limitations on the payment of dividends by national banks. The October 16 supplemental NPRM extended the initial comment period for 30 days and proposed to implement certain provisions in the NPRM on a prospective basis beginning January 1, 1990.

The OCC believes capital adequacy is critical to the safety and soundness of national banks. Major factors which contribute to bank capital are the quality of earnings and the amount of earnings that are retained as an addition to capital. Earnings paid out to stockholders in the form of cash dividends reduce the level of capital support available to a national bank. Two sections of the National Bank Act must be satisfied before a national bank can declare a dividend—12 U.S.C. 56 and 60.

While both sections 56 and 60 place limitations on the ability of a bank to pay cash dividends; these two sections serve different functions. Section 56 is a limitation on capital impairment and provides, in pertinent part:

> No association * * * shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association * * * to an amount greater than its net profits then on hand * * *.[1]

Section 60(b) contains an earnings limitation and provides:

> The approval of the Comptroller of the Currency shall be required if the total of all dividends declared by such association in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two years, less any required transfers to surplus * * *.

Thus, sections 56 and 60 establish a two-part test for determining the extent to which national banks may pay dividends. If a proposed dividend would violate the provisions of section 56, then the constraints imposed by section 60 are irrelevant, because section 56 poses an absolute bar to the payment of dividends in excess of net profits then on hand. However, if a bank has the requisite unimpaired capital under section 56, then only the recent-earnings test of section 60(b) applies. Furthermore, if a proposed dividend is payable under section 56, but fails the test of section 60, the bank may still be allowed to pay the dividend, but only with "the approval of the Comptroller of the Currency."

The OCC has issued interpretive rulings on both sections 56 and 60. Interpretive Ruling 7.6125 interprets the provisions of section 56, and focuses exclusively on "statutory bad debt." Section 56 requires that a bank deduct "losses and bad debts" from "net profits then on hand." While section 56 provides some guidance as to what constitutes bad debts, Interpretive Ruling 7.6125 provides further explanation regarding a debt that is "well secured and in the process of collection." Interpretive Ruling 7.6100 primarily is a recitation of section 60 but also relates to portions of 12 U.S.C. 51b (authority of national banks to issue

[1] As used in section 56, the term "capital" is defined in 12 U.S.C. 51c and 12 CFR 3.100 to mean unimpaired common and perpetual preferred stock outstanding. Additionally, certain paid-in capital in the form of surplus cannot be withdrawn pursuant to 12 U.S.C. 60. Therefore, section 56 effectively operates to restrict dividends to "net profits then on hand" which has been taken to mean undivided profits or retained earnings.

preferred stock) and 1828(b) (restriction on the payment of dividends by national banks in default on assessments due to the Federal Deposit Insurance Corporation).

Both sections 56 and 60 were passed as part of the National Bank Act of 1864. Since that time section 56 never has been amended. Section 60 was amended in 1935 and again in 1959.[2] In addition to Interpretive Rulings 7.6100 and 7.6125, the OCC has issued a number of formal and informal interpretations of sections 56 and 60 in the approximately 125 years since these sections became law.

Purpose

This final rule clarifies OCC interpretations and promulgates formal regulations governing the payment of dividends by national banks. In addition to promoting consistent interpretation, these amendments establish standards more consistent with regulatory reporting and GAAP with respect to the treatment of the ALLL. Moreover, the promulgation of these interpretive rulings as regulations clarifies that the requirements are legally binding on national banks. The new regulations are codified in 12 CFR part 5.

Issues

Sections 56 and 60 were enacted long before the development of modern accrual accounting. The terms used in these statutes are not precise in the context of current accounting principles. As a result, ambiguities and uncertainties concerning several accounting issues arise when applying these statutes to specific fact situations. In the NPRM, the OCC solicited comment on three specific issues:

1. What portion of a bank's "capital surplus" account should be available for the payment of dividends?
2. How should the ALLL be treated for purposes of calculating a national bank's dividend-paying capacity?
3. Should dividends on a bank's preferred stock be subject to the same limitations as dividends on its common stock?

In addition to these issues, the OCC solicited further comment in the supplemental NPRM on whether the provisions relating to the calculation of dividend-paying capacity under section 60 should be applied on a prospective basis beginning January 1, 1990.

In response to the NPRM and the supplemental NPRM, the OCC received 27 comments. The commenters represented a cross-section of financial institutions of various sizes and locations. In addition, comments were also received from industry trade associations. While individual commenters may have disagreed on specific aspects of the NPRM, most commenters support the position of the OCC in adopting regulatory reporting and GAAP with respect to the treatment of the ALLL in the implementation of the dividend regulations.

I. Capital Surplus

Pursuant to section 60(a), a national bank must maintain a surplus fund equal to its common capital.[3] At one time retained earnings (or undivided profits) did not qualify as capital for computing the total amount a bank could lend to one borrower. One way a national bank could increase its lending limit was to transfer retained earnings to the surplus fund. Consequently, most banks have surplus in excess of the amount required by section 60(a). The portion of the surplus fund in excess of what is required by section 60(a) generally is referred to as "surplus surplus."

A bank with losses in excess of its undivided profits then on hand that returns to profitability may want to pay dividends out of current earnings notwithstanding a negative balance in its retained earnings account. If the surplus fund of a bank were considered part of undivided profits then on hand,[4] a bank could legally pay a dividend since the surplus fund would, in most cases, more than offset the negative retained earnings.[5]

The OCC believes that only the portion of the surplus fund which represents prior earnings should be available for the payment of dividends. The portion of the surplus required by section 60(a) essentially represents bank capital and, therefore, should not be available for the payment of dividends. Similarly, some portions of surplus surplus may also represent capital paid in by shareholders or created by stock dividends. As such, the portion of surplus surplus representing capital should not be available for payment of dividends. Therefore, this final rule provides that only earned surplus surplus qualifies as undivided profits then on hand.

This final rule revises the OCC position to achieve consistent interpretation of this issue. This final rule permits the payment of dividends on the portion of surplus surplus which represents earnings, while prohibiting a bank from paying dividends out of paid-in capital—which would be a return of capital requiring OCC and shareholder approval under 12 U.S.C. 59.

Seven commenters agreed with the OCC that only earned surplus surplus should qualify as undivided profits then on hand. However, two commenters maintained that all of the surplus surplus should be available for the payment of dividends. These commenters reasoned that permitting all of the surplus surplus to be available for dividends would be less complicated than requiring segregation of the earned surplus surplus. While the OCC agrees that permitting all of the surplus surplus to be available as dividends would be simpler, such a rule would not be consistent with the basic rationale underlying the payment of dividends. As explained previously, permitting all of the surplus surplus to be available for dividends would result in the possibility that dividends could be paid which constituted a return of capital.

In the NPRM, the OCC also proposed that a bank must receive prior OCC approval before surplus surplus could be "unbundled" and transferred back to undivided profits. Four commenters agreed that prior approval should be required. However, one commenter asserted that prior approval would result in inequitable treatment of banks which voluntarily transferred amounts from undivided profits to surplus. Those banks would need prior OCC approval to pay dividends on that amount, while a bank which did not transfer any amounts from undivided profits to surplus could pay the dividend without any approval. Additionally, one commenter suggested a procedure to

---

[2] *See* Act of August 23, 1935, ch. 614, section 315, 49 Stat. 712; and Pub. L. 86-230, section 21(a), 73 Stat. 465.

[3] In pertinent part, section 60(a), provides:

The directors of any national banking association may, quarterly, semiannually or annually, declare a dividend of so much of the net profits of the association as they shall judge expedient, except that until the surplus fund of such association shall equal its common capital, no dividend shall be declared unless * * *.

The term "common capital" as used in section 60(a), means the total outstanding shares of common stock times the par value per share.

[4] Although 12 U.S.C. 56 uses the terms "undivided profits then on hand" and "net profits then on hand" in the same sentence, the OCC has, for a number of years, considered these terms interchangeable. *See Digest of Opinions of the OCC*, No. 6305 (1960 ed.). There is no case law that defines or distinguishes these terms, and the legislative history to the National Bank Act provides no instruction as to their meaning. Furthermore, "net profits" as used in § 60 has a different meaning from "net profits then on hand" as used in § 56. Thus, when discussing § 56, the OCC will use the term "undivided profits then on hand."

[5] *See e.g.*, OCC No Objection Letter No. 88-10, December 8, 1988, *reprinted in Fed. Banking L. Rep.* ¶ 83,002 (CCH 1989).

expedite the approval process in which requests to transfer earned surplus surplus back to undivided profits would be considered approved unless the OCC objected within 30 days.

The OCC realizes that requiring prior OCC approval for the transfer of earned surplus surplus to undivided profits may result in somewhat different treatment of national banks. However, the OCC believes that prior approval is necessary to ensure that national banks do not inadvertently transfer amounts to undivided profits in excess of actual earned surplus surplus. However, to facilitate the approval process, the final rule adopts the procedure in 12 CFR 5.46.

II. The Allowance for Loan and Lease Losses

The treatment of the ALLL is pertinent to both sections 56 and 60. For purposes of section 56, the issue is whether the ALLL should be included when calculating undivided profits then on hand. Under section 60, the issue is whether the provisions to the ALLL should be included when determining the net profits of the bank.

A. 12 U.S.C. 56

Section 56 is a capital impairment test based on the capital and retained earnings of a bank. Pursuant to section 56, a national bank cannot pay a dividend if the dividend would impair the capital of the bank.

Under regulatory reporting and GAAP, the ALLL is a contra-asset account reflecting the losses inherent (but unidentified on a loan-by-loan basis) in the loan and lease portfolio. The OCC believes that the ALLL should be available when the losses are specifically identified or actually realized. Therefore, the ALLL should not be available for distribution to the shareholders in the form of dividends. Moreover, permitting the ALLL to be included in undivided profits then on hand would have the undesirable result of allowing a bank with a negative balance in retained earnings to legally pay a dividend.[6]

In the NPRM, the OCC proposed to prohibit national banks from including the ALLL in undivided profits then on hand when calculating the amount of dividends which could be paid under section 56. Ten commenters generally agreed that the ALLL should not be included in undivided profits then on hand under section 56. However, four commenters maintained that excluding the ALLL from undivided profits then on hand provides a disincentive for national banks to maintain an adequate ALLL. One commenter further suggested that including the ALLL in undivided profits is acceptable for most healthy banks and that the rule should apply only to institutions with capital below a certain level.

The OCC is concerned that excluding the ALLL from undivided profits then on hand under section 56 might provide a disincentive for some banks to maintain an adequate ALLL. Nothwithstanding this concern, the final rule prohibits national banks from adding the ALLL to undivided profits then on hand when calculating dividend-paying capacity under section 56. The OCC strongly believes that the ALLL must be available when loan losses are identified or actually realized. Therefore, the ALLL may not be available for distribution to the shareholders in the form of dividends.

The OCC will exercise whatever supervisory authority is necessary to ensure that all national banks maintain an adequate ALLL. As to the suggestion that the application of this rule be contingent upon the capital level of a bank, the OCC believes that uniform application of the regulation to all national banks is the most equitable approach.

A related issue concerns the requirement in section 56 that a bank deduct "losses and bad debts" from undivided profits then on hand. As explained in the NPRM, the "statutory bad debt" provision was probably Congress' proxy for the ALLL. At the time section 56 was enacted, the ALLL as used under current accounting principles did not exist.

In the NPRM, the OCC proposed to permit banks to net statutory bad debts against the ALLL in computing dividend-paying capacity under section 56. To the extent a bank has statutory bad debt in excess of its ALLL, the excess would be deducted from undivided profits then on hand. However, a bank with an ALLL greater than its statutory bad debt could not include the remaining ALLL in its undivided profits then on hand.

Four commenters agreed with the OCC that statutory bad debt should be netted against the ALLL. However, two commenters believed that any amount of the ALLL in excess of statutory bad debt should be included in undivided profits then on hand.

After careful consideration of these comments, the OCC is adopting the final rule as proposed in the NPRM. The OCC believes that the netting of statutory bad debt against the ALLL is necessary to prevent any double counting which might otherwise result from requiring both statutory bad debt and the ALLL to be deducted from undivided profits then on hand. However, the OCC is not convinced that the amount of the ALL in excess of statutory bad debt should be included in undivided profits then on hand. To allow any part of the ALLL in excess of statutory bad debt to be included in the undivided profits would limit the amount of the ALLL which would be available to cover loan losses as they are identified or actually realized.

B. 12 U.S.C. 60

The issue of whether provisions to the ALLL should be considered part of "net profits" is more complex in the earnings test of section 60. Section 60(c) provides:

> For the purpose of this section the term "net profits" shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and State taxes.

While this definition of "net profits" explicitly provides for the deduction of operating expenses, losses, accrued dividends on preferred stock, and State and Federal taxes, the statute makes no mention of provisions to the ALLL.[7] When section 60 was written a majority of banks were on a cash basis of accounting, rather than an accrual basis. Therefore, the issue presented centers upon the proper treatment of loan loss provisions, charge-offs and recoveries in determining the dividend-paying capacity of a bank under the earnings test of section 60.

According to regulatory reporting and GAAP, the loan loss provision is a current operating expense charged against current earnings. As a current operating expense, provisions to the ALLL represent a reduction in the amount of net income available to shareholders. Furthermore, under regulatory reporting and GAAP actual losses and recoveries do not directly affect the earnings of a bank, since the ALLL, not earnings, is decreased when actual loan losses are incurred and increased when actual recoveries are made.

In the NPRM, the OCC proposed to interpret section 60 in a manner

---

[6] In such a situation, regulatory reporting and GAAP would not preclude a bank from paying out cash to its shareholders; however, the payment would be a return of capital, not a dividend. For national banks, such a return of capital requires shareholder and OCC approval. *See* 12 U.S.C. 59.

[7] Section 60(c) was added in 1959 by Public Law 86–230; however, the legislative history does not shed any light on the treatment of the ALLL or provisions to the ALLL. *See* 1959 U.S. Code Cong. and Adm. News, 2232.

consistent with regulatory reporting and GAAP with respect to the treatment of the ALLL. Accordingly, loan loss provisions charged to earnings would not be added back to earnings when computing the net profits of the bank. In addition, net charge-offs (actual losses minus actual recoveries) would not be deducted from net profits since they represent adjustments to the ALLL.

Six comments were received on this issue and all commenters agreed with the position of the OCC.

As noted previously, the ALLL represents losses inherent in the loan and lease portfolio. As such, the OCC believes provisions to the ALLL should not be available to shareholders for cash dividends. Accordingly, the OCC adopts a final rule consistent with regulatory reporting and GAAP with respect to the treatment of the ALLL. Provisions to the ALLL charged to earnings by a bank cannot be added back to earnings when computing net profits pursuant to section 60. Similarly, net charge-offs (actual losses minus actual recoveries) are not deducted from net profits.

Section 5.62(c) of the proposed rule, in pertinent part, provided: "When computing its net profits for the purpose of 12 U.S.C. 60, a national bank must use generally accepted accounting principles, and may not add back provisions made to its allowance for loan and lease losses." The language of this section could have been misconstrued to mean that net income calculated under GAAP would become the basis for computing net profits for the purposes of 12 U.S.C. 60. The reference to GAAP in the proposed rule applied only to the accounting treatment of the ALLL. The OCC did not intend to change its longstanding practice of requiring national banks to use the net income amount reported in their Reports of Condition and Income in determining compliance with section 60. See Interpretive letter dated January 17, 1985 (unpublished). Therefore, national banks must continue to use the net income amount reported in their Reports of Condition and Income in calculating their dividend-paying capacity under section 60. To clarify this point, section 5.62(c) of the final rule contains no reference to GAAP.

III. Preferred Stock

Neither sections 56 nor 60 is limited by its terms to common stock dividends. Therefore, the issue arises as to whether the limitations of those sections are also applicable to preferred stock dividends.

In relevant part, 12 U.S.C. 51b provides:

(a) Notwithstanding any other provision of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of such preferred stock shall be entitled to receive such cumulative dividends * * * as may be provided in the articles of association with the approval of the Comptroller of the Currency * * *.

(b) No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full * * *.

Thus, the literal language of section 51b(a) indicates that cumulative dividends on preferred stock are not restricted by the terms of sections 56 and 60. Nonetheless, when the provisions of section 51b are read in the context of the overall statutory scheme, the meaning of that section is less clear.

Section 51b was enacted as part of the Emergency Banking Act of 1933, which was intended to rehabilitate banks with impaired capital by authorizing them to issue preferred stock to the public or to the Reconstruction Finance Corporation (RFC).

As originally enacted, section 51b provided, in pertinent part:

The holders of such preferred stock shall be entitled to cumulative dividends at a rate not exceeding 6 per centum per annum * * *. Notwithstanding any other provision of law, the holders of such preferred stock shall have such voting rights, and such stock shall be subject to such retirement in such manner and on such terms and conditions, as may be provided in the articles of association with the approval of the Comptroller of the Currency.

Emergency Banking Act, March 9, 1933, ch. 1, Title III section 302, 48 Stat. 5.

According to the RFC, section 51b originally placed the RFC "in the position of either having to refuse assistance [to banks whose common stock was impaired], or having to take preferred stock * * * with no possibility of receiving dividends."[8] Therefore, at the request of the RFC, the provisions of the Emergency Banking Act that dealt with preferred stock dividends were amended in June of 1933 to authorize the payment of cumulative dividends "[n]otwithstanding any other provision of law."

A. 12 U.S.C. 56

In the NPRM, the OCC proposed to exclude from the limitations of section 56 the payment of dividends on preferred stock. As explained, this position is based on a review of the legislative history which indicates that the limitations of section 56 are not applicable to cash dividends on preferred stock.

[8] S. Rep. No. 43, 73rd Cong., 1st Sess. 1–3 (1933).

Six commenters generally supported the OCC proposal that dividend payments on preferred stock not be subject to the limitations in section 56. Three other commenters believed that dividends on preferred stock should be subject to the same limitations as dividends on common stock. In particular, two commenters expressed concern that absent the limitations imposed by section 56, dividend payments on preferred stock could be excessive and result in the dissipation of needed capital.

The OCC shares the concerns of these commenters. However, the OCC is bound to interpret section 56 in a manner consistent with the intent of Congress as indicated by the language of section 51b and the legislative history. Consequently, this final rule provides that preferred stock dividends are not subject to the limitations of section 56.

Moreover, the OCC believes that sufficient statutory safeguards exists to prevent any undue dissipation of capital which could result from the payment of dividends on preferred stock. Where a bank does not have sufficient undivided profits to cover a proposed dividend on preferred stock, the payment of that dividend would constitute a reduction of capital pursuant to section 59. As a result, prior OCC approval would be necessary before any dividend could be paid on the preferred stock. To make this position explicit, the final rule clarifies that any payment of dividends on preferred stock where the bank does not have sufficient amounts in undivided profits to cover the proposed dividend constitutes a reduction of capital requiring prior OCC approval under section 59.

B. 12 U.S.C. 60

Section 60 has been amended twice since its enactment as part of the National bank Act of 1864. The legislative history of these amendments, when read in conjunction with the legislative history of the June 1933 amendments to section 51b, indicates that the recent-earnings limitation of 12 U.S.C. 60(b) applies to preferred stock dividends.

The legislative history of the 1959 amendments to section 60 is particularly important. Although preferred stock is not covered expressly by the provisions of the section, the amendment added the recent-earnings limitation for "[t]he purpose of * * * prevent[ing] excessive dividends to shareholders where such payments would result in the dissipation

of needed capital funds * * *."[9] The clear Congressional intent of the 1959 amendments to section 60 is served by applying the recent-earnings test to preferred stock dividends.

This interpretation of section 60 also is consistent with the policy and the legislative history of section 51b. Statements in the legislative history indicating that the March 1933 version of section 51b prevented the payment of dividends "even though current earnings are sufficient for such payment" support the conclusion that the RFC was seeking dividends only from current earnings.[10]

Based on this reasoning, in the NPRM the OCC proposed that dividends on preferred stock be subject to the recent-earnings limitation of section 60(b). Six commenters agreed with the position of the OCC. Three commenters, however, had different views, One commenters asserted that imposing limitations on the payment of dividends on preferred stock would decrease the marketability of preferred stock and increase the cost of funds to banks. The two other commenters maintained that preferred stock is more like debt securities, and therefore, should not be subject to any dividend limitations.

Although imposing the recent-earnings limitation of section 60 could negatively affect the marketability of preferred stock issued by national banks, the OCC is required to interpret section 60 in a manner consistent with Congressional intent. As explained, the legislative history indicates that Congress intended that any dividend payments on preferred stock be subject to the recent-earnings limitations of section 60. As for the similarity between preferred stock and debt securities, the OCC acknowledges that, theoretically, preferred stock has some characteristics of debt; however, this distinction does not justify disregarding Congressional intent.

IV. Implementation

As proposed in the NPRM, the provision concerning the calculation of net profits pursuant to section 60 would result in the retroactive application of the rule. Pursuant to section 60, net profits are calculated for the current period plus the previous two calendar years. This retroactive aspect of section 60 raises the issue of whether the proposed rule should be applied retrospectively to require the recalculation of all prior periods, or only prospectively, to the periods going forward.

[9] 105 Cong. Rec. 15398, August 24, 1959 (statements of Representative Brown of Georgia.)

[10] S. Rep. No. 43 at 2.

As explained in the Supplemental NPRM, the OCC believes that the application of the proposed rule on a prospective basis would facilitate the transition process for national banks. Therefore, the OCC proposed to implement the regulation concerning the calculation of net profits under section 60 on a prospective basis only, beginning January 1, 1990. In this way, national banks would not be required to recompute their dividend-paying capacity for periods prior to January 1, 1990.

The OCC received seven comments on this issue. All commenters were in favor of some form of prospective application of the rule. However, three commenters suggested longer implementation periods. Specifically, one commenter proposed postponing implementation of the rule until the third quarter of 1990. Another commenter proposed following the risk-based capital guidelines implementation schedule, while yet another commenter proposed that extensions be granted by the OCC on a case-by-case basis.

After considering these proposed alternatives, the OCC has decided to implement the final rule on a prospective basis as of January 1, 1991, rather than January 1, 1990 as proposed. Delaying the implementation period to January 1, 1991 will facilitate the implementation process for national banks. Also, this approach avoids complicated split-year accounting calculations that would otherwise be required with a mid-year implementation date.

To further facilitate the implementation process, the final rule makes clear that a national bank may adopt and use the revised method of computing "net profits" under 12 CFR 5.62(c) prior to January 1, 1991. However, if a national bank decides on this early adoption, the final rule must be applied on a full calendar year to date basis and must be applied to each subsequent calendar year.

To illustrate, under the final rule a national bank which decides on early adoption of the revised method of computing "net profits" may apply the final rule to 1990 on a full calendar year to date basis. Alternatively, a national bank may apply the revised method of computing "net profits" to calendar years 1989 and 1990. Likewise, a national bank may decide to apply the revised method of computing "net profits" to calendar year 1988 in which case the bank must also apply the revised method of computing "net profits" to calendar years 1989 and 1990. Finally, if the bank decides against early adoption of the final rule, then the final rule will automatically apply beginning January 1, 1991.

Pursuant to 12 U.S.C. 553(d)(1) and (3), the Administrative Procedure Act, the OCC is making this final rule effective immediately. This final rule provides additional flexibility for national banks and the immediate effective date permits national banks to take full advantage of the more flexible requirements. An immediate effective date is in the public interest since delay of the effective date of the final rule could make compliance by national banks more difficult and costly, and require additional accounting adjustments and disclosures.

V. Miscellaneous Issues

In addition to comments on the specific issues raised in the NPRM and the supplemental NPRM, the OCC received a few comments on other related issues. A number of commenters proposed, in one manner or another, that the dividend regulations be tied to the risk-based capital guidelines. Specifically, some commenters suggested the payment of dividends should be based on the capital adequacy of the bank, while another commenter suggested that dividend restrictions should be related to the classification of the capital instruments under the risk-based capital guidelines. The OCC believes that these suggestions have merit; however, adoption of these proposals would not be possible under the current statutory scheme.

A few commenters also suggested that the OCC provide examples illustrating the application of the dividend rules. The OCC agrees that examples might be a useful guide for the implementation of these regulations. Therefore, the OCC is planning to publish examples illustrating the application of the dividend restrictions in a banking circular to be issued following publication of this final rule.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The OCC anticipates that these regulations may have some future impact on the dividend paying capacity of nearly all national banks; however, that impact will not be significant and will not involve a substantial number of small banks. While national banks will be required to deduct provisions to the ALLL from net income and undivided

profits, this requirement will have the same relative effect on all national banks regardless of size. Moreover, the requirements concerning the payment of dividends on preferred stock will not affect a substantial number of small banks because national banks in general do not have a significant amount of preferred stock outstanding. Finally, the OCC believes that this final rule will result in a net benefit to the banking industry by virtue of better capitalized institutions and reduced risk to the federal deposit insurance fund.

Executive Order 12291

The Comptroller of the Currency certifies that this final rule does not constitute a "major rule" within the meaning of Executive Order 12291 and, therefore, does not require the preparation of a regulatory impact analysis on the grounds that this regulation (1) will not have an annual effect on the economy of $100 million or more, (2) will not result in a major increase in the cost of bank operations or governmental supervision, and (3) will not have a significant adverse effect on competition (foreign and domestic), employment, investment, productivity or innovation.

The OCC does not anticipate that this final rule will have any significant impact on the economy. While the final rule does impose limits on the payment of dividends applicable to all national banks, the final rule does not impact financially sound institutions. Additionally, the OCC does not believe that the final rule will result in any major increase in the cost of bank operations or OCC supervision of national banks because the regulations only require slight adjustment to existing accounting procedures. Further, by limiting application of the rule relating to section 60, to January 1, 1991, the OCC has permitted national banks to avoid recomputing their dividend-paying capacity for the prior two years. Finally, the final rule does not have a significant adverse effect on competition, employment, investment, productivity or innovation. To the contrary, the final rule will result in a stronger, better capitalized banking system by insuring that select banks retain needed capital rather than dissipating their funds through excessive dividends.

Paperwork Reduction Act

The collections of information contained in §§ 5.61(c)(4)(ii), 5.61(d)(3)(iii), and 5.62(e) of this final rule have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1557–0189. The estimated annual burden per respondent/recordkeeper varies from one to ten or more hours, depending on individual circumstances, with an estimated average of 3.2 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Ford Barrett, Assistant Director, Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, Washington, DC 20219, and to the Office of Management and Budget, Paperwork Reduction Project (1557–0189), Washington, DC 20503.

List of Subjects

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

Authority and Issuance

For the reasons set forth in the preamble, parts 5 and 7 of Chapter I of Title 12 of the Code of Federal Regulations are amended as set forth below:

PART 5—[AMENDED]

1. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a.

2. A new § 5.61 is added to read as follows:

§ 5.61 Payment of dividends; capital limitation.

(a) *Law.* 12 U.S.C. 56 provides that: No association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it continues its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in the process of collection, shall be considered bad debts within the meaning of this section. But nothing in this section shall prevent the reduction of the capital stock of the association under section 59 of this title.

(b) *Rules of general applicability.* The rules of general applicability contained in subpart A of this part do not apply to applications under this section.

(c) *Statutory bad debt.* Pursuant to 12 U.S.C. 56, bad debts must be deducted from net profits then on hand in computing funds available for the payment of dividends on common stock Bad debts, as that term is used in the statute, means matured obligations due a national bank on which interest is past due and unpaid for six months unless the debts are well secured and in the process of collection. Every type of overdue indebtedness owing to the bank must be considered, including loans and investment securities. The six month period of default of interest may begin at any time, regardless of when the debt matures.

(1) *Matured debt.* Whether a debt has matured for purposes of the statute usually is determined by applicable contract law. Generally, a debt has matured when all or part of the principal is due and payable as the result of demand, arrival of the stated maturity date, or acceleration by contract or by operation of law. Nevertheless, any demand debt of which the payment of interest is six months past due is considered matured even though payment of the debt has not been demanded. Installment loans on which any payment is six months past due will be considered matured even though acceleration of the total debt has not occurred.

(2) *Well secured debt.* A debt is well secured within the meaning of the statute if it is secured by collateral in the form of liens on, or pledges of, real or personal property, including securities having realizable value sufficient to discharge the debt in full, or by the guaranty of a financially responsible party. In the even that the loan is partially secured, only that portion not property secured is considered a statutory bad debt.

(3) *Debt in the process of collection.* A debt is in the process of collection if collection of the debt is proceeding in due course, either through legal action, including judgment enforcement procedures, or, in appropriate circumstances, through collection efforts not involving legal actions which reasonably are expected to result in repayment of the debt or in its

restoration to current status. In any case, the bank should have a plan of collection setting forth the reason for the selected method of collection, the responsibilities of the bank and the borrower, and the expected date of repayment of the debt or its restoration to current status.

(4) *Miscellaneous*—(i) *Debts of bankrupt or deceased debtors.* A claim duly filed against the estate of a bankrupt or deceased debtor is considered as being in the process of collection. The obligation is considered well secured if it meets the criteria set forth in paragraph (c)(2) of this section or the claim of the bank against the estate has been duly filed, the statutory period for filing has expired and the assets of the estate are adequate to discharge all obligations in full.

(ii) *Documentation.* The bank must maintain in its files documentation adequate to support its evaluation of the security. In addition, the bank must retain, at a minimum, monthly progress reports on its collection efforts, noting and explaining any deviation from the collection plan.

(d) *Undivided profits.* For purposes of 12 U.S.C. 56, the terms "undivided profits then on hand" and "net profits then on hand" have the same meaning, and are referred to herein, as undivided profits then on hand.

(1) *Allowance for loan and lease losses.* When calculating the amount of dividends a bank legally can pay under 12 U.S.C. 56, the bank is not permitted to add the balance in its allowance for loan and lease losses account to its undivided profits then on hand.

(2) *Statutory bad debt.* When deducting its statutory bad debt from its undivided profits then on hand, a bank is allowed first to net the sum of its statutory bad debts against the balance in its allowance for loan and lease losses account. If the sum of a bank's statutory bad debts is greater than its allowance for loan and lease losses, the excess statutory bad debt must be deducted from the bank's undivided profits then on hand.

(3) *Surplus surplus.* Pursuant to the provisions of 12 U.S.C. 60(a), a national bank's surplus fund must equal its common capital. To the extent a bank has capital surplus in excess of what is required by section 60(a), this amount, commonly known as "surplus surplus", is considered undivided profits then on hand and available for the payment of dividends, provided:

(i) The bank can demonstrate that the surplus came from the earnings of prior periods, excluding the effect of any stock dividend;

(ii) The bank's board of directors has approved the transfer of the funds from capital surplus to undivided profits then on hand; and

(iii) The bank has requested and received the approval of the OCC before transferring funds from capital surplus to undivided profits then on hand. Requests for the OCC's approval should be submitted to the appropriate District Deputy Comptroller or the Deputy Comptroller for Multinational Banking pursuant to the procedures in § 5.46.

(e) *Preferred stock.* The provisions of 12 U.S.C. 56 do not apply to dividends on preferred stock. However, if the undivided profits then on hand of the bank are not sufficient to cover a proposed dividend on preferred stock, the proposed dividend constitutes a reduction in capital subject to 12 U.S.C. 59 and § 5.46.

(Approved by the Office of Management and Budget under control number 1557-0155)

3. A new § 5.62 is added to read as follows:

§ 5.62 Payment of dividends; earnings limitation.

(a) *Law.* 12 U.S.C. 60 (a), (b), and (c) provide that:

(1) The directors of any national banking association may, quarterly, semiannually or annually, declare a dividend of so much of the net profits of the association as they shall judge expedient, except that until the surplus fund of such association shall equal its common capital, no dividends shall be declared unless there has been carried to the surplus fund not less that one-tenth part of the association's net profits of the preceding half year in the case of quarterly or semiannual dividends, or not less than one-tenth part of its net profits of the preceding two consecutive half-year periods in the case of annual dividends: *Provided,* That for the purposes of this section, any amounts paid into a fund for the retirement of any preferred stock of any such association out of its net profits for such period or periods shall be deemed to be additions to its surplus if, upon the retirement of such preferred stock, the amounts so paid into such retirement fund may then be properly carried to surplus. In any such case the association shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired.

(2) The approval of the Comptroller of the Currency shall be required if the total of all dividends declared by such association in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two years, less any required transfers to surplus or a fund for the retirement of any preferred stock.

(3) For the purpose of this section the term "net profits" shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and State taxes.

(b) *Rules of general applicability.* The rules of general applicability contained in subpart A of this part do not apply to applications under this section.

(c) *Allowance for loan and lease losses.* When computing its "net profits" for purposes of 12 U.S.C. 60, a national bank may not add back provisions made to its allowance for loan and lease losses. Furthermore, a national bank should not deduct net charge-offs (actual losses minus recoveries) from its earnings for purposes of computing net profits.

(d) *Preferred stock.* The recent-earnings limitations set forth in 12 U.S.C. 60 apply to dividends on preferred stock.

(e) *Approval of dividends.* A bank must receive the approval of the OCC before declaring a dividend if the amount of all dividends (common and preferred), including the proposed dividend, declared by the bank in any calendar year exceeds the total of the bank's net profits of that year to date, combined with its retained net profits of the preceding two years, less any required transfers to surplus or a fund for the retirement of any preferred stock. Requests for the OCC's approval should be submitted to the appropriate District Deputy Comptroller or the Deputy Comptroller for Multinational Banking.

(f) *Implementation.* For the purpose of computing "net profits" under U.S.C. 60, a national bank must apply paragraph (c) of this section no later than January 1, 1991; however, paragraph (c) is not required to be applied retrospectively to the two prior calendar years 1989 and 1990. A national bank may apply paragraph (c) prior to January 1, 1991, provided that paragraph (c) must be applied on a full calendar year to date basis and is limited in application to one of the following alternatives:

(1) Calendar year to date 1990 only,

(2) The calendar years 1989 and 1990, or

(3) To the calendar years 1988, 1989, and 1990.

(Approved by the Office of Management and Budget under control number 1557-0155).

PART 7—[AMENDED]

4. The authority citation for part 7 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a.

§ 7.6100 [Removed]

5. Section 7.6100 is removed.

§ 7.6125 [Removed]

6. Section 7.6125 is removed.

Dated: December 7, 1990.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 90-29156 Filed 12-12-90; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-19-AD; Amendment 39-6782]

Airworthiness Directives; Piper Models PA23, PA23-150, PA23-160, PA23-235, PA23-250, and PA23-250(6) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; suspension of effectiveness.

SUMMARY: This document suspends the effectiveness of airworthiness directive AD 90-23-18, Amendment 39-6782, for certain Piper PA 23 airplanes, published in the **Federal Register** on Wednesday, November 7, 1990 (55 FR 46787). The Federal Aviation Administration has received a petition for reconsideration of this action, and has concluded that the issues raised by the petition warrant further consideration.

EFFECTIVE DATE: December 13, 1990.

FOR FURTHER INFORMATION CONTACT: W.H. Trammell, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION: AD 90-23-18, Amendment 39-6782, that is applicable to certain Piper PA23 aircraft was published in the **Federal Register** on Wednesday, November 7, 1990 (55 FR 46787), with an effective date of December 10, 1990.

The FAA has received a petition for reconsideration of this action, and believes that the issues raised by that petition warrant further consideration before compliance is mandated.

This rule became effective December 10, 1990. Since a situation exists that requires immediate public notice that the effective date has been suspended, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by suspending until further notice the effectiveness of AD 90-23-18, Amendment 39-6782 (55 FR 46787, November 7, 1990) effective December 13, 1990.

This amendment becomes effective on December 13, 1990.

Issued in Washington, DC, on December 7, 1990.

Daniel P. Salvano,

Acting Director, Aircraft Certification Service.

[FR Doc. 90-29131 Filed 12-7-90; 4:12 pm]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1245

Patents and Other Intellectual Property Rights

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: 14 CFR part 1245, subpart 2, "Licensing of NASA Inventions," provides policies and procedures applicable to the licensing of federally owned inventions in the custody of the National Aeronautics and Space Administration, and implements Public Law 96-517. The object of subpart 2 is to use the patent system to promote the utilization of inventions arising from NASA supported research and development.

EFFECTIVE DATE: December 13, 1990.

ADDRESSES: Office of General Counsel, Code GP, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Harry Lupuloff, 202-453-2430.

SUPPLEMENTARY INFORMATION: 14 CFR part 1245, subpart 2 is amended by revising NASA position titles in § 1245.208(a), (b), and (c). Since this action is internal and administrative in nature and does not affect the existing regulations, notice and public comment are not required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant impact on a substantial number of small business entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1245

Administrative practice and procedure, Authority delegations (Government agencies), Inventions and patents.

For reasons set out in the Preamble, 14 CFR part 1245 is amended as follows:

PART 1245—PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

1. The authority citation for 14 CFR part 1245, subpart 2 continues to read as follows:

Authority: 35 U.S.C. 207 and 208, 94 Stat. 3023 and 3024.

2. Section 1245.208 is revised to read as follows:

§ 1245.208 Processing applications.

(a) Applications for licenses will be initially reviewed by the Patent Counsel of the NASA installation having responsibility for the invention. The Patent Counsel shall make a preliminary recommendation to the Director of Licensing, NASA Headquarters, whether to:

(1) Grant the license as requested,

(2) Grant the license with modification after negotiation with the licensee, or

(3) Deny the license.

The Director of Licensing shall review the preliminary recommendation of the Patent Counsel and make a final recommendation to the NASA Associate General Counsel (Intellectual Property). Such review and final recommendation may include, and be based on, any additional information obtained from applicant and other sources that the Patent Counsel and the Director of Licensing deem relevant to the license requested. The determination to grant or deny the license shall be made by the Associate General Counsel (Intellectual Property) based on the final recommendation of the Director of Licensing.

(b) When notice of a prospective exclusive or partially exclusive license is published in the **Federal Register** in accordance with § 1245-206(a)(1)(iii)(A) or § 1245-206(b)(1)(i), any written objections received in response thereto will be considered by the Director of Licensing in making the final recommendation to the Associate General Counsel (Intellectual Property).

(c) If the requested license, including any negotiated modifications, is denied by the Associate General Counsel (Intellectual Property), the applicant may request reconsideration by filing a written request for reconsideration within 30 days after receiving notice of denial. This 30-day period may be extended for good cause.

(d) In addition to, or in lieu of requesting reconsideration, the applicant may also appeal the denial of the license in accordance with § 1245.211.

Dated: November 23, 1990.

Richard H. Truly,

Administrator.

[FR Doc. 90-29084 Filed 12-12-90; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 773, and 774

[Docket No. 901215-0315]

Exports to Sweden: Shorter Processing Time Frames, Permissive Reexports From Sweden to the People's Republic of China, Higher Level Computers Under the Distribution License

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: As part of the Department of Commerce initiative to streamline export licensing requirements for exports to countries that are demonstrating increased ability to safeguard reexports of U.S.-origin strategic goods and technology, the Bureau of Export Administration (BXA) is extending to Sweden additional export licensing benefits available under the provisions of section 5(k) of the Export Administration Act of 1979, as amended. This action will lessen the administrative burden on U.S. exporters and their foreign customers.

Specifically, BXA is:

• Amending § 770.14 to provide shorter processing times for license applications for Sweden,

• Removing the requirement for specific U.S. reexport authorization for reexports from Sweden to the People's Republic of China of commodities described in Advisory Notes for the People's Republic of China or Country Groups QWY, and

• Amending the Distribution License procedure to authorize exports of higher level computers.

EFFECTIVE DATE: This rule is effective December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0694-0005, 0694-0010, and 0694-0015.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. The rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is being issued in final form. However, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 770, 773 and 774

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, parts 770, 773, and 774 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR parts 770, 773, and 774 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986). Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

PART 770—[AMENDED]

2. Section 770.14 is amended by revising the introductory text of paragraph (a) and by revising paragraph (a)(3)(ii) to read as follows:

§ 770.14 Processing license applications for COCOM participating countries and other selected countries.

(a) *General.* Section 10(o) of the Act provides for different processing time frames for license applications for exports of COCOM controlled items to countries participating in COCOM, the multilateral Coordinating Committee that cooperates in maintaining strategic export controls; these special processing time frames also apply to license applications for shipments to Austria, Finland, Korea (Republic of), Sweden, and Switzerland. The procedures and time limits set forth in this section apply to license applications received in the Office of Export Licensing on or after the date that each country's eligibility was published in the **Federal Register**. License applications to one of the above countries received prior to that country's eligibility date will be processed under the previous time frames. Applications subject to nuclear non-proliferation controls that are referred to the interagency Subgroup on Nuclear Export Coordination are not subject to the time limits in this section, but will be processed in accordance with § 770.13(g). As used in this section:

* * * * *

(3) * * *

(i) * * *

(ii) "Other selected countries" means Austria, Finland, Korea (Republic of), Sweden, and Switzerland.

* * * * *

PART 773—[AMENDED]

3. In Supplement No. 8 to part 773, "Sweden" is added immediately before "Switzerland".

PART 774—[AMENDED]

4. In § 774.2, paragraph (j) is amended by adding the word ", Sweden" immediately before the words "or Switzerland".

Dated: December 10, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-29234 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM90-9-000; Order No. 531]

Modification of Regulations on Form No. EIA-714, Annual Electric Power System Report

Issued December 6, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations on Form No. EIA-714, Annual Electric Power System Report (18 CFR 141.51). The amendments involve retitling of the Form and changing who must submit the Form. The title is changed to "Annual Control Area and Electric System Report." The amendments also require submission of data by control areas and electric utilities with a peak load greater than 200 MW.

The purpose of the changes is to provide consistent reporting of electric utility industry operational data to better support current regulatory responsibilities of the Commission.

EFFECTIVE DATE: The final rule is effective January 14, 1991.

FOR FURTHER INFORMATION CONTACT:

Ann E. Gorton, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-2137.

William Booth, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0849.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Jerry J. Langdon and Branko Terzic.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations on Form No. EIA-714, Annual Electric Power System Report (Form EIA-714).[1] The final rule requires that: (1) Individual electric utilities or groups of utilities, called "control areas," report the appropriate schedules; [2] and (2) individual electric utilities or groups of electric utilities that constitute a planning area and that have a peak load greater than 200 megawatts (MW) report the appropriate schedules. The final rule also changes the title of the report to reflect these changes.

The Commission's regulations have required reporting by individual electric utilities, not by control areas. In light of the fact that control areas are the basic operating units of the electric utility industry, this final rule will allow the collection of comprehensive, accurate, and consistent statistics on electric power industry operations.

The purpose of the changes is to provide consistent reporting of electric utility industry operational data (*e.g.*, power generation, energy transfers, load distribution, and peak load and energy forecasts) to obtain a better overall picture of annual power generation in the United States. Such reporting will support the Commission's regulatory efforts. The Energy Information Administration (EIA) of the Department of Energy is responsible for the design and administration of the form.[3]

The Commission received comments from five utilities subject to its jurisdiction in response to the Notice of Proposed Rulemaking (NOPR).[4] The Commission has considered all of these comments in developing the final rule.[5] The Commission is issuing the final rule herein in substantial conformity with the NOPR. Some minor changes and explanations have been made in order to clarify the regulatory text. Specific comments are discussed below where appropriate.

II. Reporting Burden

A. Estimate

The annual public reporting burden for collection of information, as revised herein, is estimated to be 86 hours per response for the Form No. EIA-714. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (Attention: Michael Miller, Office of Information Resources Management, (202) 208-1415); and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

---

[1] 18 CFR 141.51 (1990).

[2] The definition of control area contained in the final rule is consistent with the Operating Manual of the North American Electric Reliability Council (NERC) of April 1, 1990.

[3] On July 9, 1990, the **Federal Register** published a notice wherein EIA solicited comments on proposed revisions and extension of Form EIA-714. 55 F.R. 28,085 (July 9, 1990). The notice states that comments will be addressed in EIA's request for Office of Management and Budget (OMB) approval of the form.

[4] 55 F.R. 32,641 (August 10, 1990); IV FERC Stats. & Regs. ¶ 32,475 (1990).

[5] Comments were received from: Southern Company Services, Inc.; Pacific Gas and Electric Company; West Texas Utilities Company; Southwestern Public Service Company; and Public Service Company of Colorado and Cheyenne Light Fuel & Power Company jointly.

B. Comments

Southwestern Public Service Company (Southwestern) claims that it would require 700 hours to complete the revised form, at a cost of $30,000.[6] Pacific Gas & Electric Company (PG&E) estimates that it would require a minimum of 200 hours to complete the revised form. The other commenters do not address the issue of reporting burden.

C. Conclusion

The Commission believes that Southwestern and PG&E have overstated the reporting burden imposed by the final rule. Both Southwestern's and PG&E's reporting burden estimates include one-time, start-up time and cost estimates. Also, Southwestern and PG&E both assume that, in collecting "control area" data, they will be held responsible for collecting data from entities over which they have no control. Southwestern states that the collection of control area data "is based on the assumption that an electric utility running a control area has the power, the authority, and the means to obtain data available only to other electrical systems within its control area." [7] PG&E states that reporting much of the data would require obtaining from other utilities detailed data not normally required for daily system operations.

Southwestern and PG&E misconstrue the requirements of the final rule. As defined in the NOPR and the final rule, a control area is an integrated electric system capable of regulating its generation in order to maintain its interchange schedule with other systems and capable of contributing to the frequency regulation of the regional interconnection grid. Under this definition, control area data required by Form EIA–714 is readily available from the energy management system [8] operated by those respondents who operate a control area.[9]

Although the reporting burden for some individual respondents may increase due to the final rule's changes, all respondents will no longer have to complete all schedules.[10] On balance, therefore, the Commission believes the overall burden on the industry will be lessened by the final rule's changes.

III. Background and Discussion

A. Purpose and Objectives

The requirements that the final rule replaces are inadequate for the Commission because the basic operating arrangement of the industry, a control area, is not necessarily equivalent to the previous reporting unit, which was a "system" meeting certain threshold criteria.[11] The inconsistency between a control area, as defined by the industry, and a system, as defined in the Commission's previous regulations, made it difficult for utilities to report some of the necessary data and for the Commission and EIA to obtain a comprehensive picture of electric industry operations.

The final rule requires that applicable operational information on Form EIA–714 be reported by control area. The final rule also requires load (peak load and energy projections and hourly load data) and transmission data (transmission system maps and line data) to be reported by planning areas; that is, individual electric utilities or groups of electric utilities which assume load responsibility.[12] The final rule requires that planning areas with peak loads greater than 200 MW submit the appropriate schedules on Form No. EIA–714.

The final rule also changes the title of the form to "Annual Electric Control and Planning Area Report," in order to make the title descriptive of the revised form.

B. Comments

1. General

Southern Company Services, Inc. (Southern Company) states that its five member entities currently file Form EIA–714 separately, and that Southern Company also files the form for its coordinated system. Southern Company's system operates as a single control area. Southern Company concludes that the proposed rule change will eliminate reporting duplication by allowing it to file only one form for its entire control area. Southern Company requests guidance from the Commission about the proposed requirement to have load and transmission data reported by planning areas. Southern Company asks whether each of its five operating companies must continue to provide such information separately, or if one filing by Southern Company will suffice. As stated in the NOPR, the entity or entities that assume load responsibility must submit a form. The obligation to submit a form will vary from system to system. Some holding companies assume load responsibility, while others do not. The Commission recognizes these variations in the organization of utilities. Consequently, it has not specified which entity should submit the form for each electric utility. The final rule merely requires the entity that assumes load responsibility to file Form EIA–714.

Public Service Company of Colorado and Cheyenne Light & Fuel Company (collectively, Colorado) expressed general support for the Commission's intent to improve the consistency in reporting electric utility industry operational data.

2. System Lambda

Colorado objects to reporting system lambda data because it claims that such reporting will impair the competitive ability of all utilities to respond. Colorado requests that the requirement for system lambda data be deleted, or that respondents be given the chance to request waiver of that reporting requirement. Colorado states that such data is proprietary and confidential and has a direct effect upon each entity's competitive advantage. Colorado adds that overall system lambda data do not exist for its entire control area. Colorado claims that such data would likely be invalid or inconsistent because certain types of non-dispatch transactions would not be included.[13] Southern Company asks why system lambda is needed and who will have access to this data. Also, Southern Company states that system lambda and total monthly energy do not belong on the same schedule.

Although the collection of system lambda data is beyond the scope of this

---

[6] Southwestern states that it has neither the ability nor the authority to collect control area data, and it estimates that the cost for submitting data on its own behalf would be $6,000–$8,000.

[7] Southwestern comments at 1.

[8] The energy management system is the computer system that performs economic dispatch of the control area's generating units.

[9] Generation-related data should include information on only those plants controlled by or metered by the control area operator, or for which the required information is otherwise available to the control area operator. Information on municipal generation and other generation under direct or indirect control of the utility operating the control area should be reported. The Commission understands that the control area operator may not have access to information on certain plants in its control area which are presumably treated as negative load (*i.e.*, a reduction in demand). Information concerning this generation is not required on Form EIA–714. This clarification should significantly reduce the burden estimates of Southwestern and PG&E.

[10] Most of the reporting requirements for this form only apply to control areas. There are fewer than half as many control areas as there are electric utilities that submitted the form under the previous regulations (and that now will report the reduced amount of information for planning areas).

[11] See n. 18, *infra*.

[12] Assuming load responsibility means being obligated to forecast system load demands and to provide resources to serve those demands.

[13] For example, system lambda does not take into account either manually controlled generating units or purchased power.

final rule,[14] the Commission notes that system lambda is ordinarily computed in the course of control area operations with economic dispatch of thermal generation. System lambda is simply a function of fuel costs and plant efficiencies. It does not involve proprietary contractual information. Public availability of system lambda data will assist the Commission in carrying out its regulatory responsibilities and may serve to enhance competition in bulk power markets. Finally, Form EIA-714 is not confidential and, therefore, system lambda data reported on it will be available to the public.

3. Date for submission of Form EIA-714

Southern Company and West Texas Utilities Company (West Texas) ask the Commission to extend the annual due date for submission of Form EIA-714 from May 1 until June 1. Southern and West Texas seek this extention because they claim that most of the information required on Form EIA-714 is also reported on FERC Form 1.[15] The Commission declines to grant the request. The Commission does not accept the contention that Form EIA-714 substantially duplicates FERC Form 1. Moreover, the reporting entities already have most of the data required by Form EIA-714. Therefore, four months is sufficient time in which to gather and submit the data on Form EIA-714.

For 1991, however, because of the substantial nature of the changes to Form EIA-714 and the fact that OMB may not approve changes to the form until March 1991, the Commission will extend the deadline until July 1, 1991 for submitting the Form EIA-714 covering 1990.

4. Alternative Sources of Data

Southwestern states that the Commission, the Securities and Exchange Commission and the NERC, as well as the regulatory authorities in each state, already collect, on an individual utility basis, various portions of the data required by the revised form. As noted above, PG&E states that FERC Form 1 contains much of the data required by the revised Form EIA-714. PG&E adds that the Western System Coordinating Council (WSCC), of which PG&E is a member system, already provides the Commission with two copies of the Department of Energy (DOE) Form IE-411, entitled "Coordinated Bulk Power Supply Program" (DOE form), which contains some of the data required by the revised Form EIA-714. Also, according to PG&E, the WSCC provides the NERC with an assessment of reliability and adequacy for summer and winter operating conditions twice a year, which information is available to the Commission. Finally, PG&E asserts that it annually prepares a Uniform Statistical Report for the Edison Electric Institute which contains detailed information similar to that submitted on FERC Form 1. PG&E suggests that if utilities were to submit the above reports to the Commission instead of Form EIA-714, the reporting burden on the utilities would be substantially reduced.

There are several distinctions between Form EIA-714 and the other sources of data mentioned by the commenters. Although some of the data on the DOE form and Form EIA-714 may be similar, the DOE form is aggregated for domestic members of the nine Regional Electric Reliability Councils of the NERC. It is possible that certain information requested on the DOE form can be eliminated where such information can be derived from Form EIA-714. The Commission is working with the NERC and the DOE to eliminate any unnecessary duplication in this area which may result from the revisions herein.

Further, in contrast to Form EIA-714, FERC Form 1 collects primarily financial and accounting information. FERC Form 1 is submitted by major privately-owned utilities. Form EIA-714 is to be completed by control and planning areas. The reporting of monthly peak load data on Form EIA-714 and page 401 of the FERC Form 1 may appear duplicative. However, monthly load data required for Form 1 is carefully defined to support Commission cost-of-service analyses and is likely to differ from the planning area monthly load data required on Form EIA-714. In addition, the DOE form is a voluntary form submitted by Regional Electric Reliability Councils to the Office of Energy Emergencies of the DOE. Form EIA-714, by contract is a mandatory form necessary to assist the Commission in carrying out its regulatory responsibilities.

IV. Changes

The final rule amends the previous regulation as follows:

(a) *Inclusion of "Control Areas" as entities required to file Form EIA-714.*

Under the previous regulation, Form EIA-714 was filed by any "electric utility," as defined under section 3(4) of the Public Utility Regulatory Policies Act, 16 U.S.C. 2602 (1988).[16] The amended regulation requires that Form EIA-714 be filed by any electric utility, or group of electric utilities, that operates as a "control area." For purposes of determining who must file Form EIA-714, the meaning of "electric utility" remains unchanged. "Control area" means an integrated electric system[17] capable of regulating its generation in order to maintain its interchange schedule with other systems and capable of contributing to the frequency regulation of the regional interconnected grid.

(b) *Inclusion of "Planning Areas" as entities required to file a Form EIA-714 when their peak load is greater than 200 megawatts.*

The amended regulation requires that Form EIA-714 be filed by any electric utility, or group of electric utilities, that constitutes a planning area and that has a peak load greater than 200 MW based on net energy for load for the reporting year.[18] For purposes of determining who must file Form EIA-714, the meaning of "electric utility" remains unchanged, and "planning area" means an electric system comprising an electric utility, or group of electric utilities, that assumes responsibility for serving the area loads.

(c) *Change in title of the regulation and title of Form EIA-714.*

Form EIA-714 was previously titled "Annual Electric Power System Report." The amended regulation retitles both the form and the authorizing regulation as "Annual Electric Control and Planning Area Report." This change reflects the content of Form EIA-714, as amended, and highlights the new requirement imposed upon control and planning areas.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA),[19] generally requires a description and analysis of proposed rules that will have a "significant economic impact on a substantial number of small entities." The Commission is not required to make such an analysis if a rule would not have such an effect. The Commission

[14] The collection of system lambda data will be addressed separately in EIA's request for OMB's approval of Form EIA-714.

[15] FERC Form 1 is due on April 30.

[16] See also 18 CFR 141.51(a) (1990).

[17] For purposes of Form EIA-714, an electric system is the physically connected generation, transmission, distribution, and other facilities operated as an integral unit under one control, management, or operating supervision.

[18] 18 CFR 141.51 provided that the electric utility must report "for every system that: * * * (2) [o]wns and/or operates operable generating capacity of more than 25 megawatts (MW); and (3) [h]as net system and firm sales for resale in excess of 100,000 megawatthours (MWh) for the reporting year."

[19] 5 U.S.C. 601-612 (1988).

does not believe that this final rule will have such an impact on small entities. Most electric utilities do not fall within the RFA's definition of small entity.[20] Therefore, the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Statement

The Commission concludes that issuance of this final rule would not represent a major federal action having significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[21] This rule would be procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required.[22]

VII. Information Collection Statement

The OMB's regulations require that OMB approve certain information and record keeping requirements imposed by an agency.[23] This amended regulation, titled Form EIA-714, Annual Electric Control and Planning Area Report, replaces the previous regulation codified at 28 CFR 141.51, Annual electric Power System Report, and is being submitted to OMB for its review. This amended regulation provides comprehensive, accurate, and consistent statistics on electric power industry operations to assist the Commission in fulfilling its regulatory responsibilities under the Federal Power Act.[24] This amended regulation applies to individual electric utilities and groups of electric utilities operating either as control areas or as planning areas. It involves the aggregation by some utilities, "control areas," of data on electrical systems that were previously filed in a disaggregative format. The Commission estimates that there will be approximately 144 control area respondents and 300 planning area respondents. Due to overlap between control areas and planning areas, the Commission estimates that either the control area, the planning area, or both parts of the form will be completed by approximately 320 respondents, with an estimated annual average response burden of 86 hours. The total estimated annual average response burden will be 27,520 hours.

[20] 5 U.S.C. 601(3), citing section 3 of the Small Business Act, 15 U.S.C. 632 (1988). Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

[21] 52 FR 47,897 (Dec. 17, 1987), III FERC Stats. & Regs ¶ 30,783 (Dec. 10, 1987) (codified at 18 CFR part 380).

[22] See 18 CFR 380.4(a)(1) (1990).

[23] 5 CFR 1320.13 (1990).

[24] 16 U.S.C. 824 *et seq.* (1988).

VIII. Effective Date

This final rule is effective January 14, 1991.

List of Subjects in 18 CFR Part 141

Electric power.

Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 141 in chapter I, title 18 of the Code of Federal Regulations, as set forth below.

By the Commission.

Linwood A. Watson, Jr.,
Acting Secretary.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 is revised to read as follows:

Authority: 42 U.S.C. 7102–7352; E.O. 12009, 3 CFR, 1978 Comp., p. 142; 16 U.S.C. 791a–828c; 16 U.S.C. 2601–2645.

2. Section 141.51 is revised to read as follows:

§ 141.51 Form No. EIA-714, Annual Electric Control and Planning Area Report.

(a) *Who must file.* (1) Any electric utility, as defined under section 3(4) of the Public Utility Regulatory Policies Act, 16 U.S.C. 2602, operating a control area, and any group of electric utilities, which by way of contractual arrangements operates as a single control area, must complete and file the applicable schedules in Form No. EIA-714 with the Energy Information Administration.

(2) Any electric utility, or group of electric utilities, that constitutes a planning area and that has a peak load greater than 200 megawatts (MW) based on net energy for load for the reporting year must complete applicable schedules in Form No. EIA-714.

(b) *When to file.* Form No. EIA-714 must be filed on or before May 1 for the preceding calendar year, beginning with data covering calendar year 1991, which must be filed on or before May 1, 1992. Data covering calendar year 1990 must be filed on or before July 1, 1991.

(c) *What to file.* An original and three conformed copies of Form No. EIA-714, "Annual Electric Control and Planning Area Report," must be filed with the Energy Information Administration, in accordance with the instructions in that form and in this section.

[FR Doc. 90-29150 File 12-12-90; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committees; Establishment and Termination

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment by the Commissioner of Food and Drugs of the Medical Devices Advisory Committee and the termination of the existing devices panels. This document revises the agency's list of standing advisory committees to show these actions.

EFFECTIVE DATE: December 13, 1990. Authority for the Medical Devices Advisory Committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Patsy Trisler, Center for Devices and Radiological Health (HFZ-400), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1186.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463 and 21 CFR 14.40(b)), FDA announces the establishment by the Commissioner of Food and Drugs of the Medical Devices Advisory Committee (the Committee). The Committee consists of 16 panels. Each panel, according to its specialty area, will review and evaluate available data concerning the safety and effectiveness of marketed and investigational devices and advise the Commissioner of Food and Drugs (the Commissioner) regarding recommended classification of these devices into one of three regulatory categories: Class I (general controls), class II (performance standards), or class III (premarket approval); recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development

protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification as appropriate; recommend exemptions to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; advise on the necessity to ban a device; and respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

The Committee, through its Dental Products Panel, also will function at times as an over-the-counter (OTC) drug advisory panel. As such, the Committee will receive and evaluate data concerning the safety and effectiveness of active ingredients, and combinations thereof, of various currently marketed nonprescription drug products for human use and the adequacy of their labeling, and will advise the Commissioner on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded. The Committee will evaluate data and make recommendations concerning the approval of new drug products for human use and whether various prescription drug products should be changed to OTC status.

Because this is a technical amendment to 21 CFR part 14, the Commissioner finds under 21 CFR 10.40(c), (d), and (e) that notice, public procedure, and delayed effective date are unnecessary and contrary to the public interest.

Concurrently with the establishment of this Committee, the Commissioner terminated the following advisory committees: Anesthesiology and Respiratory Therapy Devices Panel; Circulatory System Devices Panel; Clinical Chemistry and Clinical Toxicology Devices Panel; Dental Products Panel; Ear, Nose, and Throat Devices Panel; Gastroenterology-Urology Devices Panel; General and Plastic Surgery Devices Panel; General Hospital and Personal Use Devices Panel; Hematology and Pathology Devices Panel; Immunology Devices Panel; Microbiology Devices Panel; Neurological Devices Panel; Obstetrics-Gynecology Devices Panel; Ophthalmic Devices Panel; Orthopedic and Rehabilitation Devices Panel; and Radiologic Devices Panel.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: Secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); 21 U.S.C. 41–50, 141–149, 467f, 679, 821, 1034; secs. 2, 351, 354–360F, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 263b–263n, 264); secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 5 U.S.C. App. 2; 28 U.S.C. 2112.

2. Section 14.100 is amended by revising paragraph (d)(1) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(d) * * *

(1) *Medical Devices Advisory Committee.*

(i) *Data established:* October 27, 1990.

(ii) *Function:* Reviews and evaluates data on marketed and investigational devices and makes recommendations for their regulation.

* * * * *

Dated: December 7, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–29165 Filed 12–12–90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8323]

RIN 1545–AL06

Information Reporting on Real Estate Transactions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations relating to the information reporting requirements for real estate transactions contained in section 6045(e). The final regulations supersede § 1.6045–3T on the effective date and affect persons required to make returns of information under section 6045(e). The final regulations provide these persons with the guidance necessary to comply with the law.

DATES: The final regulations are effective on January 1, 1991, and apply to real estate transactions with dates of closing on or after January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur E. Davis III, 202–377–9581 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545–1085.

The estimated annual burden per respondent/recordkeeper varies from .10 to 1.00 hours depending on individual circumstances, with an estimated average of .28 hours.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of the burden estimate and suggestions for reducing the burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer TR:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On April 18, 1990, the **Federal Register** published a Notice of Proposed Rulemaking (55 FR 14429) under section 6045(e) of the Internal Revenue Code of 1986, relating to information reporting on real estate transactions. Section 6045(e) was added to the Code by section 1521 of the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2746). Section 6045(e) was amended by section 1015(e) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647, 102 Stat. 3342).

After issuance of the proposed regulations, the Internal Revenue Service received public comments on the proposed regulations and held a public hearing on September 24, 1990. Four commentators spoke at the public hearing. After fully considering the comments and the statements made at

the hearing, the Service adopts the proposed regulations as revised by this Treasury decision. Descriptions of the revisions to the proposed regulations are included in the discussion of the public comments below.

Exceptions to Reporting Rules

FIRPTA Transactions

The proposed regulations provided no exception to the reporting requirements under section 6045(e) for transactions also subject to sections 897 and 1445, enacted by the Foreign Investment Real Property Tax Act of 1980 (FIRPTA). Several commentators agreed with the position in the proposed regulations and asked that such transactions not be excepted for reasons of administrative convenience to the reporting person. Other commentators suggested that an exception be provided for such transactions because information provided under section 6045(e) would duplicate information provided under the FIRPTA provisions.

Providing such an exception would require an additional certification procedure to allow reporting persons to determine whether transactions are subject to FIRPTA. This procedure would greatly increase the administrative burden the regulations impose on reporting persons. In addition, if the regulations do not provide an exception for FIRPTA transactions, the information the Service receives will be useful in monitoring taxpayer compliance with the FIRPTA requirements and exemptions (e.g., the exemption from FIRPTA withholding under section 1445(b)(5), relating to the disposition of a residence where the amount realized does not exceed $300,000). Accordingly, the final regulations do not provide an exception to the reporting requirements for transactions subject to FIRPTA.

Transactions Subject to Either Section 351 or 721

Under the proposed regulations, the reporting requirements of section 6045 (e) generally apply to all real estate transactions, whether or not gain or loss is realized and/or recognized. Thus, no exception was provided for transfers qualifying for nonrecognition of gain under either section 351 or 721 of the Code. Several commentators have suggested that such transactions be excepted because they do not result in current gain recognition.

Transfers to a corporation or partnership in exchange for an interest in the corporation or partnership are not always tax-free. See, for example, sections 357 and 752 of the Code. In addition, if, for example, any liability of the transferor is assumed by the corporation or partnership or the real estate is transferred subject to a liability, there will be gross proceeds to report with respect to the transaction. Finally, as stated above, the reporting requirements generally apply without regard to whether gain or loss is realized or recognized.

As with the FIRPTA issue described above, an exception for transactions under sections 351 and 721 (or, for that matter, for any other category of transactions in which gain or loss is not realized or recognized) would necessitate additional certification requirements which would increase the administrative burden imposed by the regulations. Moreover, if an exemption were provided only for those section 351 and 721 transactions in which no gain is recognized, the burden would be even greater because the transferor would also have to certify that no gain is recognized and reporting would still be required for transactions in which gain is recognized. In a number of instances, a transferor would be required to seek advice concerning the tax treatment of a transaction before being able to provide the required certifications.

Accordingly, the final regulations do not provide an exception for transactions falling under either section 351 or 721.

Gross Proceeds

The proposed regulations provided rules for determining the amount of gross proceeds to be reported with respect to a real estate transaction. Several commentators requested clarification of the application of the proposed rules to exchanges of real estate. The final regulations provide clarifications including examples that illustrate the amount of gross proceeds to be reported.

Several commentators also requested clarification of the rules involving contingent payments. The final regulations clarify the rules for determining the amount of gross proceeds to be reported in the case of contingent payments and provide examples of the application of those rules. These rules are summarized as follows:

(a) If a real estate transaction is a "contingent payment transaction," gross proceeds include the "maximum determinable proceeds," if any.

(b) The term "contingent payment transaction" means a real estate transaction with respect to which the receipt, by or on behalf of the transferor, of cash or consideration treated as cash is subject to a contingency.

(c) The term "maximum determinable proceeds" means the gross proceeds determined by assuming that all of the contingencies contemplated by the documents available at closing are met or otherwise resolved in a manner that will maximize the gross proceeds. Where, using this approach, the maximum gross proceeds cannot be determined with certainty (because, for example, they are based on a percentage of profits not limited by a ceiling), the maximum determinable proceeds are the greatest amount that can be determined with certainty using this approach. In addition, the regulations provide rules for the information that must be included on the required Form 1099 in cases in which, assuming all contingencies are met or otherwise resolved, the maximum gross proceeds cannot be determined with certainty.

Timber Transactions

The proposed regulations provided an exception from the reporting requirements for transactions involving natural resources, including standing timber. Section 6050N of the Code requires reporting for certain royalty payments, including timber royalties, but not for other transactions involving timber. The Service believes that the disparity in the reporting requirements for different forms of timber transactions may be inappropriate. However, this issue was not addressed in the Pubic comments and was not considered at the public hearing. Accordingly, the final regulations contain the exception for natural resource transactions, including standing timber. The Service will open a new regulations project to consider the expansion of the reporting requirements to include sales and exchanges of standing timber. Any requirements for the reporting of standing timber will apply only to transactions occurring after the issuance of such requirements.

Federally-Subsidized Indebtedness

Sections 6045(a) and 6045(e)(4) of the Code authorize the Secretary to require reporting with respect to any financing of the seller that is federally-subsidized indebtedness (as defined in section 143(m)(3) of the Code). The final regulations reserve on this issue and do not require the reporting person to provide this information. Under Notice 90-70, 1990-48 I.R.B. 6, the issuer of federally-subsidized financing is required to report specified information at the time the financing is provided. The Service believes this information will be more useful and easier to

provide at such time. In the event the Service determines that reporting at the time of the sale, under section 6045(e), should also be required, such reporting will only apply to transactions with dates of closing occurring after the issuance of such requirements.

Exception for de Minimis Transactions

The proposed regulations contained an exception for transfers in which the total gross proceeds are less than $250. Commentators suggested that the amount be increased. The final regulations provide for a de minimis level of $600. This level will be the same as the statutory threshold established for several other information reporting provisions (sections 6041, 6041A and 6050H of the Code).

Several commentators indicated that it was unclear whether the de minimis amount is based on total gross proceeds and is determined without regard to the allocation of such gross proceeds among multiple transferors. The final regulations clarify that the $600 limitation is based on total gross proceeds and is determined without regard to the allocation of such gross proceeds among multiple transferors.

Allocation of Gross Proceeds

Based on the suggestion of several commentators, the final regulations clarify that the reporting person generally must report the entire gross proceeds with respect to each and every transferor where no allocation of gross proceeds is received. Specifically, the final regulations provide that the reporting person generally must report the gross proceeds in accordance with any allocation received at or before the time of closing.

The reporting person may (but is under no obligation to) report in accordance with any allocation of gross proceeds received during the period that occurs after the time of closing and before the date on which the information returns must be filed with the Service (determined without regard to extensions).

The reporting person may not, however, report in accordance with any allocation received on or after the date on which the information returns must be filed with the Service (determined without regard to extensions).

Effective Date

As stated in the proposed regulations, the final regulations (§ 1.6045–4) are effective for real estate transactions with dates of closing on or after January 1, 1991. Thus § 1.6045–3T applies only to transactions with dates of closing between January 1, 1987 and December 31, 1990, inclusive.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this Treasury decision was preceded by a notice of proposed rulemaking that solicited public comments, the notice was not required by 5 U.S.C. 553 since the regulations proposed in that notice and adopted by this Treasury decision are interpretative. Therefore a final Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. Chapter 6). In accordance with section 7805 (f) of the Internal Revenue Code, the proposed regulations were submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Arthur E. Davis III of the Office of Assistant Chief Counsel, Income Tax & Accounting. However, personnel from other offices of the Treasury Department and from the Internal Revenue Service participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.6001–1 through 1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set forth in the preamble, title 26, chapter I, subchapter A, part 1, and subchapter H, part 602, of the Code of Federal Regulations is amended as set forth below:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.6045–4 also issued under 26 U.S.C. 6045.

Par. 2. Section 1.6045–3T is amended by revising the heading and revising paragraph (p) as follows:

§ 1.6045–3T Information reporting on real estate transactions with dates of closing that occur after December 31, 1986, and prior to January 1, 1991 (Temporary).

* * * * *

(p) *Effective date*—This section shall be effective for real estate transactions with dates of closing (as determined under paragraph (h)(2)(ii) of this section) that occur after December 31, 1986, and prior to January 1, 1991. No penalty will be imposed with respect to a transaction with a date of closing that occurs before May 4, 1987.

Par. 3. The following new § 1.6045–4 is added in the appropriate place.

§ 1.6045–4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

(a) *Requirement of reporting.* Except as otherwise provided in paragraphs (c) and (d) of this section, a real estate reporting person ("reporting person") must make an information return with respect to a real estate transaction and, under paragraph (m) of this section, must furnish a statement to the transferor. A reporting person may also report with respect to transactions otherwise excepted in paragraphs (c) and (d) of this section. However, if the reporting person so elects, the return must be filed and the statement furnished in accordance with the provisions of this section. For the definition of a real estate transaction for purposes of these reporting requirements, see paragraph (b) of this section. For rules for determining the reporting person with respect to a real estate transaction, see paragraph (e) of this section.

(b) *Definition of real estate transaction*—(1) *In general.* A transaction is a "real estate transaction" under this section if the transaction consists in whole or in part of the sale or exchange of "reportable real estate" (as defined in paragraph (b)(2) of this section) for money, indebtedness, property other than money, or services. The term "sale or exchange" shall include any transaction properly treated as a sale or exchange for Federal income tax purposes, whether or not the transaction is currently taxable. Thus, for example, a sale or exchange of a principal residence is a real estate transaction under this section even though the transferor is entitled to defer recognition under section 1034 (relating to rollover of gain on sale of principal residence), or the transferor is entitled to the special one-time exclusion of gain from the sale of a principal residence provided by section 121 to certain persons who have attained age 55.

(2) *Definition of reportable real estate.* Except as otherwise provided in paragraph (c)(2) of this section, the term "reportable real estate" means any present or future ownership interest in—

(i) Land (whether improved or unimproved), including air space;

(ii) Any inherently permanent structure, including any residential, commercial or industrial building;

(iii) Any condominium unit, including appurtenant fixtures and common elements (including land); or

(iv) Any stock in a cooperative housing corporation (as defined in section 216).

For purposes of this section, the term "ownership interest" includes fee simple interests, life estates, reversions, remainders, and perpetual easements. In addition, the term "ownership interest" includes any previously created rights to possession or use for all or a portion of any particular year (*i.e.*, a leasehold, easement, or "timeshare"), with a remaining term of at least 30 years, including any period for which such rights may be renewed at the option of the holder of the rights, as determined on the date of closing (as defined in paragraph (h)(2)(ii) of this section). Thus, for example, a pre-existing leasehold on a building with an original term of 99 years is an ownership interest in real estate for purposes of this section if it has a remaining term of 35 years as of the date of closing, but not if it has a remaining term of only 10 years as of the date of closing. However, the term "ownership interest" does not include an option to acquire otherwise reportable real estate.

(c) *Exception for certain exempt transactions*—(1) *Certain transfers.* No return of information is required with respect to—

(i) A transaction that is not a sale or exchange (such as a gift (including a transaction treated as a gift under section 1041) or bequest, or a financing or refinancing that is not related to the acquisition of reportable real estate), even if the transaction involves reportable real estate, as defined in paragraph (b)(2) of this section;

(ii) A transfer in full or partial satisfaction of any indebtedness secured by the property so transferred including a foreclosure, a transfer in lieu of foreclosure or an abandonment; or

(iii) A transaction (a "de minimis transfer") in which it can be determined with certainty that the total consideration (in money, services and property), received or to be received in connection with the transaction is less than $600 in value (determined without regard to any allocation of gross proceeds among multiple transferors under paragraph (i)(5) of this section) as of the date of the closing (as defined in paragraph (h)(2)(ii) of this section), even if the transaction involves reportable real estate. Thus, for example, if a contract for sale of reportable real estate recites total consideration of "$1.00 plus other valuable consideration," the transfer is not a de minimis transfer unless the reporting person can determine that the "other valuable consideration" received or to be received is less than $599 in value as measured on the date of closing.

(2) *Certain property.* Notwithstanding the provisions of paragraph (b)(2) of this section, no return of information is required with respect to a sale or exchange of an interest in any of the following property—provided the sale or exchange of such property is not related to the sale or exchange of reportable real estate—

(i) An interest in surface or subsurface natural resources (*i.e.*, timber, water, ores and other natural deposits) or crops, whether or not such natural resources or crops are severed from the land;

(ii) A burial plot or vault; or

(iii) A manufactured structure used as a dwelling that is manufactured and assembled at a location different from that where it is used, but only if such structure is not affixed, at the date of closing (as defined in paragraph (h)(2)(ii) of this section), to a foundation. Thus, a transfer of an unaffixed mobile home that is unrelated to the sale or exchange of reportable real estate is excepted from the reporting requirements of this section.

(d) *Exception for certain exempt transferors*—(1) *General rule.* No return of information is required with respect to a transferor that is a corporation under section 7701(a)(3) or section 7704(a) or is considered under paragraph (d)(2) of this section to be—

(i) A corporation;

(ii) A governmental unit; or

(iii) An exempt volume transferor.

In the case of a real estate transaction with respect to which there is one or more exempt transferor(s) and one or more non-exempt transferor(s), the reporting person is required to report with respect to any non-exempt transferor. The special rule for allocation of gross proceeds, as provided in paragraph (i)(5) of this section, applies to such a transaction.

(2) *Treatment as exempt transferor.* Absent actual knowledge to the contrary, a reporting person may treat a transferor as—

(i) A corporation if—

(A) The name of the transferor contains an unambiguous expression of corporate status, such as Incorporated, Inc., Corporation, Corp., or P.C. (but not Company or Co.);

(B) The name of the transferor contains the term "insurance company," "reinsurance company," or "assurance company"; or

(C) The transfer or loan documents clearly indicate the corporate status of the transferor;

(ii) A governmental unit if the transferor is—

(A) The United States or a state, the District of Columbia, a possession of the United States, a political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing; or

(B) A foreign government, a political subdivision thereof, an international organization, as defined in section 7701(a)(18), or any wholly-owned agency or instrumentality of the foregoing; or

(iii) An exempt volume transferor if, and only if, the reporting person receives a certification of exempt status under paragraph (d)(3) of this section.

(3) *Certification of exempt status*—(i) *In general.* A certification of exempt status must contain—

(A) The name, address, and taxpayer identification number of the transferor (the address must be that of the permanent residence (in the case of an individual), that of the principal office (in the case of a corporation or partnership), or that of the permanent residence or principal office of any fiduciary (in the case of a trust or estate));

(B) Sufficient information to identify any otherwise reportable real estate not reported by virtue of the exempt status of the transferor; and

(C) A declaration that the transferor has sold or exchanged during either of the prior two calendar years, or previously sold or exchanged during the current calendar year, or, as of the date of closing (as defined in paragraph (h)(2)(ii) of this section), reasonably expects to sell or exchange during the current calendar year at least 25 separate items of reportable real estate (as defined in paragraph (b)(2) of this section) to at least 25 separate transferees, and that each such item, at the date of closing of the sale of such item was or will be held primarily for sale or resale to customers in the ordinary course of a trade or business. For example, the declaration may be worded as follows:

[Insert name of transferor]

[check one or more]:

(1) ___ has sold or exchanged during either of the prior two calendar years,

(2) ___ previously sold or exchanged during the current calendar year,

(3) ___ on the date of closing expects to sell or exchange during the current calendar year,

at least 25 separate items of reportable real estate to at least 25 separate transferees and each such item, at the date of closing of such item was or will be held primarily for sale or resale to customers in the ordinary course of a trade or business.

(ii) *Additional requirements.* A certification of exempt status must be—

(A) Signed under penalties of perjury by the transferor or any person who is authorized to sign a declaration under penalties of perjury in behalf of the transferor as described in section 6061 and the regulations thereunder;

(B) Received by the reporting person no later than the time of closing; and

(C) Retained by the reporting person for four years following the close of the calendar year in which the date of closing (as determined under paragraph (h)(2)(ii) of this section) occurs.

(iii) *Reporting person may accept or disregard certification.* A reporting person may solicit or merely accept a certification of exempt status. Moreover, notwithstanding a transferror's furnishing of such certification, a reporting person may disregard the certification and, instead, report with respect to the transaction. See paragraph (a) of this section for the requirement that such elective reporting must be in compliance with the provisions of this section.

(e) *Person required to report*—(1) *In general.* Although there may be other persons involved in a real estate transaction, only the reporting person is required to report with respect to any real estate transaction. Except as provided in a designation agreement under paragraphs (e)(5) of this section, the reporting person with respect to a real estate transaction is—

(i) The person responsible for closing the transaction, as defined in paragraph (e)(3) of this section; or

(ii) If there is no person responsible for closing the transaction, the person determined to be the reporting person under paragraph (e)(4) of this section.

A person may be the reporting person with respect to a transaction whether or not such person performs or is licensed to perform real estate brokerage services for a commission or fee.

(2) *Employees, agents, and partners.* For purposes of this paragraph (e), if an employee, agent, or partner (other than an employee, agent, or partner of the transferor or the transferee) acting within the scope of such person's employment, agency, or partnership participates in a real estate transaction—

(i) Such participation shall be attributed to such person's employer, principal, or partnership; and

(ii) Only the employer, principal, or partnership (and not such person) may be the reporting person with respect to such transaction as a result of such participation.

However, the participation of a person described in paragraph (e)(3)(i) of this section (*i.e.,* a person listed on the Uniform Settlement Statement as the settlement agent) acting as an agent of another is not attributed to the principal.

(3) *Person responsible for closing the transaction*—(i) *Uniform Settlement Statement used.* If a Uniform Settlement Statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. 2601 *et seq.* (a "Uniform Settlement Statement"), is used with respect to the real estate transaction and a person is listed as settlement agent on the statement, such person is the person responsible for closing the transaction. For purposes of this section, a Uniform Settlement Statement shall include any amendments or variations thereto, or substitutions therefore that may hereafter be prescribed under RESPA, provided that any such amended, varied, or substituted form requires disclosure of the parties to the transaction, the application of the proceeds of the transaction, and the identity of the settlement agent or other person responsible for preparing the form.

(ii) *Other closing statement used.* If a Uniform Settlement Statement is not used, or if a Uniform Settlement Statement is used, but no person is listed as settlement agent, the person responsible for closing the transaction is the person who prepares a closing statement presented to the transferor and transferee at, or in connection with, the closing of the real estate transaction. For purposes of this section, a closing statement is any closing statement, settlement statement (including a Uniform Settlement Statement), or other written document that identifies the transferor and transferee, reasonably identifies the transferred real estate, and describes the manner in which the proceeds payable to the transferor are to be (or were) disbursed at, or in connection with, the closing.

(iii) *No closing statement used or multiple closing statements used.* If no closing statement is used or multiple closing statements are used, the person responsible for closing the transaction is the first-listed of the persons that participate in the transaction as—

(A) The attorney for the transferee who is present at the occasion of the delivery of either the transferee's note or a significant portion of the cash proceeds to the transferor, or who prepares or reviews the preparation of the document(s) transferring legal or equitable ownership of the real estate;

(B) The attorney for the transferor who is present at the occasion of the delivery of either the transferee's note or a significant portion of the cash proceeds to the transferor, or who prepares or reviews the preparation of the document(s) transferring legal or equitable ownership of the real estate; or

(C) The disbursing title or escrow company that is most significant in terms of gross proceeds disbursed.

If more than one attorney would be the person responsible for closing the transaction under the preceding sentence, the person among such attorneys who is considered responsible for closing the transaction under this paragraph (e)(3)(iii) is the person whose involvement in the transaction is most significant.

(4) *Determination of the real estate reporting person in the absence of a person responsible for closing the transaction.* If no person is responsible for closing the transaction (within the meaning of paragraph (e)(3) of this section), the reporting person with respect to the real estate transaction is the person first-listed below of the persons that participate in the transaction as—

(i) The mortgage lender (as defined in paragraph (e)(6)(i) of this section);

(ii) The transferor's broker (as defined in paragraph (e)(6)(ii) of this section);

(iii) The transferee's broker (as defined in paragraph (e)(6)(iii) of this section); or

(iv) The transferee (as defined in paragraph (e)(6)(iv) of this section).

(5) *Designation agreement*—(i) *In general.* If a written designation agreement executed at or prior to the time of closing designates one of the persons described in paragraph (e)(5)(ii) of this section as the reporting person with respect to the transaction and the designated person is a party to the agreement, the designated person is the reporting person with respect to the transaction. It is not necessary that all parties to the transaction (or that more than one party) be parties to the agreement.

(ii) *Persons eligible.* A person may be designated as the reporting person

under this paragraph (e)(5) only if the person is—

(A) The person responsible for closing the transaction (as defined in paragraph (e)(3) of this section);

(B) A person described in paragraph (e)(3)(iii) (A), (B) or (C) of this section (whether or not such person is responsible for closing the transaction); or

(C) The mortgage lender (as defined in paragraph (e)(6)(i) of this section).

(iii) *Form of designation agreement.* A designation agreement may be in any form that is consistent with the requirements of this paragraph (e)(5), and may be included on a closing statement with respect to the transaction. The designation agreement must, however, include the name and address of the transferor and transferee and the address and any additional information necessary to identify the real estate transferred. The agreement must identify, by name and address, the person designated as the reporting person with respect to the transaction, and all other parties (if any) to the agreement. All parties to the agreement must date and sign the agreement and must retain the agreement for four years following the close of the calendar year in which the date of closing (as determined under paragraph (h)(2)(ii) of this section) occurs. Upon request by the Internal Revenue Service, or any person involved in the transaction who did not participate in the designation agreement, the agreement must be made available for inspection.

(6) *Meaning of terms*—(i) *Mortgage lender.* For purposes of this paragraph (e), the term "mortgage lender" means the person who lends new funds in connection with the transaction, but only if the repayment of such funds is secured in whole or in part by the real estate transferred. If new funds are advanced by more than one person, the mortgage lender is the person who advances the largest amount of new funds. If two or more persons advance equal amounts of new funds and no other person advances a greater amount of new funds, the mortgage lender among the persons advancing such equal amounts is the person with the security interest that is most senior in terms of priority. For purposes of this paragraph (e)(6)(i), any amounts advanced by the transferor are not treated as new funds.

(ii) *Transferor's broker.* For purposes of this paragraph (e), the term "transferor's broker" means only the broker that contracts with the transferor and is compensated in connection with the transaction.

(iii) *Transferee's broker.* For purposes of this paragraph (e), the term "transferee's broker" means only the broker that participates to a significant extent in the preparation of the transferee's offer to acquire the real estate or that presents such offer to the transferor. If more than one person is so described, the transferee's broker is the person whose participation in the preparation of the transferee's offer to acquire the real estate is most significant or, in the event there is no such person, the person whose participation in the presentation of the offer is most significant.

(iv) *Transferee.* For purposes of this paragraph (e), the term "transferee" means the person who acquires the greatest interest in the real estate. If there is no such person, the transferee is the person listed first on the document(s) transferring legal or equitable ownership of the real estate.

(f) *Multiple transferors*—(1) *General rule.* In the case of multiple transferors, each of which transfers an interest in the same reportable real estate, the reporting person shall make a separate information return with respect to each transferor. Paragraph (i)(5) of this section provides rules for the determination of gross proceeds to be reported in the case of multiple transferors.

(2) *Rules for spouses.* Transferors who are husband and wife at the time of closing and hold the reportable real estate as tenants in common, joint tenants, tenants by the entirety, or community property are treated as a single transferor for purposes of paragraphs (f)(1), (h)(1)(i), (i)(5) and (l)(1)(i) of this section, unless the reporting person receives, at or prior to the time of closing, an uncontested allocation of gross proceeds between them. In the case of a husband and wife treated as a single transferor, the reporting person may treat either as the transferor for purposes of paragraphs (h)(1)(i) and (l)(g)(1) of this section, relating to reporting and soliciting taxpayer identification numbers.

(g) *Prescribed form.* Except as otherwise provided in paragraph (k) of this section, the information return required by paragraph (a) of this section shall be made on Form 1099.

(h) *Information required*—(1) *In general.* The following information must be set forth on the Form 1099 required by this section:

(i) The name, address, and taxpayer identification number (TIN) of the transferor (see also paragraph (f)(2) of this section);

(ii) A general description of the real estate transferred (in accordance with paragraph (h)(2)(i) of this section);

(iii) The date of closing (as defined in paragraph (h)(2)(ii) of this section);

(iv) To the extent required by the Form 1099 and its instructions, the entire gross proceeds with respect to the transaction (as determined under the rules of paragraph (i) of this section), and, in the case of multiple transferors, the gross proceeds allocated to the transferor (as determined under paragraph (i)(5) of this section);

(v) To the extent required by the Form 1099 and its instructions, an indication that the transferor—

(A) Received (or will, or may, receive) property (other than cash and consideration treated as cash in computing gross proceeds) or services as part of the consideration for the transaction,

(B) May receive property (other than cash) or services in satisfaction of an obligation having a stated principal amount, or

(C) May receive, in connection with a contingent payment transaction, an amount of gross proceeds that cannot be determined with certainty using the method described in paragraph (i)(3)(iii) of this section and is therefore not included in gross proceeds under paragraphs (i)(3)(i) and (i)(3)(iii) of this section;

(vi) The real estate reporting person's name, address, and TIN;

(vii) [Reserved]; and

(viii) Any other information required by the Form 1099 or its instructions.

(2) *Meaning of terms*—(i) *General description of the real estate transferred.* A general description of the real estate transferred includes the complete address of the property. If the address would not sufficiently identify the property, a general description of the real estate also includes a legal description (*e.g.*, section, lot, and block) of the property.

(ii) *Date of closing.* In the case of a real estate transaction with respect to which a Uniform Settlement Statement is used, the date of closing shall be the date (if any) properly described as the "Settlement Date" on such statement. In all other cases, the date of closing shall be the earlier of the date on which title is transferred or the date on which the economic burdens and benefits of ownership of the real estate shift from the transferor to the transferee.

(i) *Gross proceeds*—(1) *In general.* Except as otherwise provided in this paragraph (i), the term "gross proceeds" means the total cash received or to be received by or on behalf of the

transferor in connection with the real estate transaction. For purposes of this paragraph (i), the following amounts are treated as cash received or to be received by or on behalf of the transferor in connection with the real estate transaction:

(i) The stated principal amount of any obligation to pay cash to or for the benefit of the transferor in the future (including any obligation having a stated principal amount that may be satisfied by the delivery of property (other than cash) or services);

(ii) The amount of any liability of the transferor assumed by the transferee as part of the consideration for the transfer or of any liability to which the real estate acquired is subject (whether or not the transferor is personally liable for the debt); and

(iii) In the case of a contingent payment transaction, as defined in paragraph (i)(3)(ii) of this section, the maximum determinable proceeds, as defined in paragraph (i)(3)(iii) of this section.

Gross proceeds does not include the value of any property (other than cash and consideration treated as cash) or services received by, or on behalf of, the transferor in connection with the real estate transaction. See paragraph (h)(1)(v) of this section for the information that must be included on the Form 1099 required by this section in cases in which the transferor receives (or will, or may, receive) property (other than cash and consideration treated as cash) or services as part of the consideration for the transfer.

(2) *Treatment of sales commissions and similar expenses.* In computing gross proceeds, the total cash received or to be received by or on behalf of the transferor shall not be reduced by expenses borne by the transferor (such as sales commissions, expenses of advertising the real estate, expenses of preparing the deed, and the cost of legal services in connection with the transfer).

(3) *Special rules for contingent payments*—(i) *In general.* If a real estate transaction is a contingent payment transaction, gross proceeds consist of the maximum determinable proceeds, if any.

(ii) *Contingent payment transaction.* For purposes of this section, the term "contingent payment transaction" means a real estate transaction with respect to which the receipt, by or on behalf of the transferor, of cash or consideration treated as cash under paragraph (i)(1)(i) of this section is subject to a contingency.

(iii) *Maximum determinable proceeds.* For purposes of this section, the term "maximum determinable proceeds" means the gross proceeds determined by assuming that all of the contingencies contemplated by the documents available at closing are met or otherwise resolved in a manner that will maximize the gross proceeds. If the maximum amount of gross proceeds cannot be determined with certainty using this method, the maximum determinable proceeds are the greatest amount that can be determined with certainty using this method. See paragraph (h)(1)(v)(C) of this section for the information that must be included on the Form 1099 required by this section in cases in which the maximum amount of gross proceeds cannot, by using the method described in this paragraph (i)(3)(iii), be determined with certainty.

(4) *Uniform Settlement Statement used.* If a Uniform Settlement Statement is used with respect to a real estate transaction involving a transfer of reportable real estate solely for cash and consideration treated as cash in computing gross proceeds, the gross proceeds generally will be the same amount as the contract sales price properly shown on that statement.

(5) *Special rules for multiple transferors*—(i) *General rules.* In the case of multiple transferors (within the meaning of paragraph (f) of this section) each of which transfers an interest in the same reportable real estate, the reporting person must request the transferors to provide an allocation of the gross proceeds among the transferors. The request must be made at or before the time of closing. Neither the request nor the response is required to be in writing. The reporting person must make a reasonable effort to contact all transferors of whom the reporting person has actual knowledge. The reporting person may, however, rely on the unchallenged response of any transferor and need not make additional efforts to contact other transferors after at least one complete allocation (whether or not contained in a single response) is received. Except as otherwise provided in this paragraph (i)(5), the reporting person shall report the gross proceeds in accordance with any allocation received at or before the time of closing. The reporting person may (but is not required to) report the gross proceeds in accordance with any allocation received after the time of closing and before the date (determined without regard to extensions) the Forms 1099 are required to be filed. The reporting person may not report the gross proceeds in accordance with any allocation received on or after the date (determined without regard to extensions) the Forms 1099 are required to be filed. If no gross proceeds are allocated to a transferor because no allocation or an incomplete allocation is received by the reporting person, the reporting person shall report the entire unallocated gross proceeds (if any) on the return of information made with respect to such transferor. If the reporting person receives conflicting allocations from the transferors, the reporting person shall report the entire gross proceeds on each return of information made with respect to the transaction.

(ii) *Rules for spouses.* The reporting person need not request an allocation of gross proceeds if the only transferors are husband and wife at the time of closing. If there are other transferors, the reporting person need only make a reasonable effort to contact either the husband or wife in connection with the request for an allocation. See paragraph (f)(2) of this section for rules that treat a husband and wife as multiple transferors if an uncontested allocation of gross proceeds is received by the reporting person at or prior to the time of closing.

(6) *Multiple asset transactions.* In the case of a real estate transaction reportable under this section that involves the transfer of reportable real estate and other assets, the amount attributable to both the real estate and other assets is treated as the gross proceeds with respect to that real estate transaction. No allocation of gross proceeds is made among the assets.

(j) *Time and place for filing.* A reporting person shall file the information returns required by this section with respect to a real estate transaction after December 31 of the calendar year that includes the date of closing (as determined under paragraph (h)(2)(ii) of this section) and on or before February 28 of the following calendar year. The returns shall be filed with the appropriate Internal Revenue Service Center at the address listed in the Instructions to Form 1099.

(k) *Use of magnetic media and substitute forms*—(1) *Magnetic media*—(i) *General rule.* A reporting person that is required to make a return of information under this section shall, except as otherwise provided in paragraph (k)(1) (ii) or (iii) of this section, submit the information required by this section on magnetic media (within the meaning of 26 CFR 301.6011-2). Returns on magnetic media shall be made in accordance with 26 CFR 301.6011-2) and applicable revenue procedures.

(ii) *Exception for low-volume filers.* For rules allowing a reporting person to make the information returns required

by this section on the prescribed paper Form 1099 if the reporting person is required by this section to file fewer than 250 returns during the calendar year, see section 6011(e) and guidance issued by the Internal Revenue Service thereunder.

(iii) *Undue hardship.* The Commissioner may authorize a reporting person to file information returns on the prescribed paper Form 1099 instead of on magnetic media if undue hardship is shown either on Form 8508, Request for Waiver From Filing Information Returns on Magnetic Media, or on a written statement requesting a waiver for undue hardship filed with the Martinsburg Computing Center, Martinsburg, West Virginia in accordance with applicable revenue procedures.

(2) *Substitute forms.* A reporting person that is described in paragraph (k)(1)(ii) of this section or that receives permission to file returns on the prescribed paper Form 1099 under paragraph (k)(1)(iii) of this section may prepare and use a form that contains provisions identical with those of Form 1099 if the reporting person complies with all applicable revenue procedures relating to substitute Form 1099, including any requirement relating to the use of machine-readable paper forms.

(l) *Requesting taxpayer identification numbers (TINS)*—(1) *Solicitation*—(i) *General requirements.* A reporting person who is required to make an information return with respect to a real estate transaction under this section must solicit a TIN from the transferor at or before the time of closing. The solicitation may be made in person or in a mailing that includes other items. Any person whose TIN is solicited under this paragraph (l) must furnish such TIN to the reporting person and certify that the TIN is correct. See paragraph (f)(2) of this section for rules that treat a husband and wife as a single transferor (and provide for the TIN solicitation of either) in the absence of an allocation of gross proceeds under paragraph (i)(5) of this section.

(ii) *Content of solicitation.* The solicitation shall be made by providing to the person from whom the TIN is solicited a written statement that the person is required by law to furnish a correct TIN to the reporting person, and that the person may be subject to civil or criminal penalties for failing to furnish a correct TIN. For example, the solicitation may be worded as follows:

You are required by law to provide [insert name of reporting person] with your correct taxpayer identification number. If you do not provide [insert name of reporting person] with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law.

The solicitation shall contain space for the name, address, and TIN of the person from whom the TIN is solicited and for the person to certify under penalties of perjury that the TIN furnished is that person's correct TIN. The wording of the certification must be substantially similar to the following: "Under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number." The requirements of this paragraph (l)(1)(ii) may be met by providing to the transferor a copy of Form W-9. In the case of a real estate transaction for which a Uniform Settlement Statement is used, the requirements of this paragraph (l)(1)(ii) may be met by providing to the transferor a copy of such statement that is modified to conform to the requirements of this paragraph (l)(1)(ii).

(iii) *Retention requirement.* The solicitation shall be retained by the reporting person for four years following the close of the calendar year that includes the date of closing (as determined under paragraph (h)(2)(ii) of this section). Such solicitation must be made available for inspection upon request by the Internal Revenue Service.

(2) *No TIN provided.* A reporting person that does not receive the transferor's TIN will not be subject to any penalty cross-referenced in paragraph (n) of this section by reason of failure to report such TIN if the reporting person has complied with the requirements of paragraph (l)(1) of this section in good faith (determined with proper regard for a course of conduct and the overall results achieved for the year).

(m) *Furnishing statements to transferors*—(1) *Requirement of furnishing statements.* A reporting person who is required to make a return of information under paragraph (a) of this section shall furnish to the transferor whose TIN is required to be shown on the return a written statement of the information required to be shown on such return. The written statement must bear either the legend shown on the recipient copy of Form 1099 or the following:

This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.

This requirement may be satisfied by furnishing to the transferor a copy of a completed Form 1099 (or substitute Form 1099 that complies with current revenue procedures). In the case of a real estate transaction for which a Uniform Settlement Statement is used, this requirement also may be satisfied by furnishing to the transferor a copy of a completed statement that is modified to comply with the requirements of this paragraph (m), and by designating on the Uniform Settlement Statement the items of information (such as gross proceeds or allocated gross proceeds) required to be set forth on the Form 1099. For purposes of this paragraph (m), a statement shall be considered furnished to a transferor if it is given to the transferor in person, either at the closing or thereafter, or is mailed to the transferor at the transferor's last known address.

(2) *Time for furnishing statement.* The statement required under this paragraph (m) shall be furnished to the transferor on or after the date of closing and before February 1 of the following calendar year.

(n) *Cross-reference to penalties.* See the following sections regarding penalties for failure to comply with the requirements of section 6045(e) and this section:

(1) Section 6721 for failure to file a correct information return;

(2) Section 6722 for failure to furnish a correct statement to the transferor;

(3) Section 6723 for failure to comply with other information reporting requirements (including the requirement to furnish a TIN);

(4) Section 6724 for definitions and rules relating to waiver and payment; and

(5) Section 7203 for willful failure to supply information (including a taxpayer identification number).

(o) *No separate charge.* A reporting person may not separately charge any person involved in a real estate transaction for complying with any requirements of this section.

(p) *Backup withholding requirements.* [Reserved.]

(q) *Federally-subsidized indebtedness.* [Reserved].

(r) *Examples.* The following examples illustrate the application of this section:

Example (1)—Sale or exchange. (i) On June 1, 1991, A, an individual, buys a house from B, an individual, for $200,000. The entire $200,000 is financed by B under an "installment land contract," whereby A takes possession and assumes all significant economic benefits and burdens of ownership of the house, and B retains legal title to the property until A fully performs under the contract. On June 1, 1994, A refinances his purchase of the house with Z, a financial institution. The balance owed to B is repaid

and B relinquishes title to the house. A retains possession and the benefits and burdens of ownership of the house.

(ii) For federal income tax purposes, the transaction occurring on June 1, 1991 is considered a sale of the house by B, notwithstanding his retention of legal title to the property. B's sale is subject to information reporting under this section. However, the transaction occurring on June 1, 1994 is not a sale or exchange for federal income tax purposes, and notwithstanding the change in legal title upon the deeding over of the property, that transaction is not subject to information reporting under this section.

Example (2)—Sale or exchange. On August 10, 1991, C, an individual, accepts an offer from Y, a corporation that acts on behalf of T (C's employer) to facilitate moves of T's transferred employees from one part of the country to another. Under the offer, C transfers his residence to Y for $250,000 by executing a deed to the property in blank and giving Y a power of attorney to dispose of the residence. C also immediately vacates the residence, whereupon Y begins paying all costs associated with the residence and is entitled to all income from the residence, including sales proceeds. On October 1, 1991, Y sells the residence to D and inserts C's name in the deed previously executed by J. Thus, neither Y nor T ever become record owners of the residence. C's transfer of the residence to Y on August 10, 1991 is a sale of reportable real estate and is subject to information reporting under this section; however, the sale on October 1, 1991 is not required to be reported because Y (the transferor in that sale) is a corporation. See paragraph (d) of this section.

Example (3)—Definition of ownership interest. E, an individual, owns a perpetual timeshare interest in a residential unit of real property at an oceanfront resort. For consideration, on November 15, 1991, E sells her rights in the property for the period January 1, 1992 through December 31, 1992 to F. The transfer of E's property interest is not the transfer of an ownership interest, as defined in paragraph (b)(2) of this section and therefore is not reportable real estate under paragraph (b)(2) of this section. Accordingly, the transfer is not a real estate transaction under section (b)(1) of this section, and no return of information is required with respect to E's property transfer.

Example 4—Gross proceeds (exchange). (i) G, an individual, agrees to transfer Blackacre, which has a fair market value of $100,000, plus $20,000 cash to H, an individual, in exchange for Whiteacre, which as a fair market value of $120,000. No liabilities will be assumed in the transaction and neither property is subject to any liabilities. P is the reporting person with respect to both sides of the transaction.

(ii) With respect to the transfer of Blackacre by G to H, P must report gross proceeds of $-0- (even though the exchange agreement may recite total exchange value of $120,000). See paragraph (i)(1) of this section. In addition, (to the extent required by the Form 1099 and its instructions) P must indicate that G will receive property as part of the consideration for the transaction. See paragraph (h)(v)(A) of this section.

(iii) With respect to the transfer of Whiteacre by H to G, P must report gross proceeds of $20,000 (the cash received by H). No other amount is reported under paragraph (i)(1) of this section even though the exchange agreement may recite total exchange value of $120,000. In addition, (to the extent required by the Form 1099 and its instructions) P must indicate that H will receive property as part of the consideration for the transaction. See paragraph (h)(v)(A) of this section.

Example (5). Gross proceeds (deferred exchange). [Reserved]

Example (6). Gross proceeds (contingencies). K, an individual, sells an unencumbered apartment building to L for $500,000, payable at closing, plus an amount equal to 2% of gross rents from the apartment building for each of the next 5 years, the contingent payments to be made annually with adequate stated interest. The agreement provides that the maximum amount K may receive (including the downpayment but excluding the interest) is $600,000. Under paragraph (i)(3)(ii) of this section the real estate transaction is a "contingent payment transaction." Under paragraph (i)(3)(iii) of this section, the maximum amount of gross proceeds determined by assuming all contingencies are satisfied is $600,000. Thus, $600,000 is the "maximum determinable proceeds" and is the amount reported.

Example (7). Gross proceeds (contingencies). The facts are the same as in example (6), except that the agreement does not provide for adequate stated interest. The result is the same as in example (6).

Example (8). Gross proceeds (contingencies). The facts are same as in example (6), except that no maximum amount is stated in the agreement (or any other document available at closing). Under paragraph (i)(3)(iii) of this section, assuming all contingencies are satisfied, the maximum amount of gross proceeds cannot be determined with certainty. The greatest amount that can be determined with certainty at the time of the closing, assuming all contingencies are satisfied, is $500,000, the cash downpayment. Therefore, $500,000 is the "maximum determinable proceeds" under paragraph (i)(3)(iii) of this section and is the amount reported. In addition, (to the extent required by the Form 1099 and its instructions) the reporting person must indicate that the gross proceeds cannot be determined with certainty. See paragraph (h)(1)(iv)(C) of this section.

Example (9). Gross proceeds (contingencies). The facts are the same as in example (8), except that the agreement provides that the minimum amount K will receive (including the downpayment) is $570,000. Thus, under paragraph (i)(3)(iii) of this section, assuming all contingencies are satisfied, the maximum amount of gross proceeds cannot be determined with certainty. The greatest amount that can be determined with certainty at the time of the closing, assuming all contingencies are satisfied, is $570,000, the minimum amount stated in the agreement. Therefore, $570,000 is the "maximum determinable proceeds" under paragraph (i)(3)(iii) of this section and is the amount reported. In addition, (to the extent required by the Form 1099 and its instructions) the reporting person must indicate that the gross proceeds cannot be determined with certainty. See paragraph (h)(1)(iv)(C) of this section.

(s) *Effective date.* This section is effective for real estate transactions with dates of closing (as determined under paragraph (h)(2)(ii) of this section) that occur on or after January 1, 1991.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. Section 602.101(c) is amended by inserting in the appropriate place in the table "1.6045-4 . . . 1545-1085".

Approved: November 27, 1990.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90-29239 Filed 12-12-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD-05-90-85]

COTP Hampton Roads, Regulation 90-RFR 085; Security Zone Regulations; Chesapeake Bay, James River, Port of Hampton Roads, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a security zone encompasssing the grounds, piers and waterside of Newport News Marine Terminal, Newport News, Virginia. This zone is needed to prevent destruction, loss or injury to military equipment and supplies while military operations are being carried out at Newport News Marine Terminal. The Capitain of the Port, Hampton Roads, Virginia will enforce a security zone consisting of the Newport News Marine Terminal property enclosed within the perimeter fence and extending southwesterly from the shoreline at position 36-58-09.2N latitude, 76-25-43.OW longitude to a point at 36-58-00.ON latitude, 76-25-58.1W longitude, thence northwesterly

to a point at 36–58–19.5N latitude, 76–26–13.1W longitude, and returning northeasterly to the shoreline at position 36–58–27.ON latitude, 76–25–58.4W longitude. Individuals or vessels will not be allowed to approach within 200 yards of the Newport News Marine Terminal, except as permitted by the Captain of the Port or his designated representataive. Movement of individuals and vehicles within Newport News Marine Terminal may be restricted or prohibited.

EFFECTIVE DATE: This regulation is effective begining December 4, 1990 and terminates on or about December 31, 1990, unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia.

FOR FURTHER INFORMATION CONTACT: LTJG W.J.P. Westphal II, Project Officer, at USCG Marine Safety Office Hampton Roads. TEL: (804) 441–3294, (FTS) 827–3294. Normal working hours are 7:30 a.m. to 4 p.m. weekdays except for holidays.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss or injury to resources involved in the military operations taking place in the vicinity of the Newport News Marine Terminal.

Drafting Information

The drafter of this regulation is LTJG W.J.P. Wesphal II, project officer for the Captain of the Port, Hampton Roads.

Discussion of Regulation

A security zone is being established encompassing the grounds, piers and waterside of Newport News Marine Terminal, Newport News, Virginia from December 4, 1990 until the completion of military operations taking place there. This zone is needed to safeguard materials and persons in the vicinity from sabatoge or other subversive acts, accidents, or other causes of a similar nature while military operations are being conducted. This security zone will encompass the Virginia Port Authority property known as Newport News Marine Terminal, at Warick Blvd. Newport News, Virginia, 23607, that is enclosed by a perimeter fence. The security zone will also include the waters of the James River within 200 yards of the piers of Newport News Marine Terminal, bounded by a line extending southwesterly from the shoreline at position 36–58–09.2N latitude, 76–25–43.OW longitude to a point at 36–58–00.ON latitude, 76–25–58.1W longitude, thence northwesterly to a point at 36–58–19.5N latitude, 76–26–13.1W longitude, and returning northeasterly to the shoreline at position 36–58–27.ON latitude, 76–25–58.4W longitude. The security zone will be enforced from December 4, 1990 until approximately December 31, 1990. Coast Guard personnel will be on the scene at all times while the security zone is in effect. Coast Guard vessels will enforce the security zone over the water whenever a vessel involved in the military operations is inside the security zone. Commercial and recreational boats will not be permitted to enter the security zone, except as permitted by the Captain of the Port.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 reads as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. In part 165, a new § 165.T0585 is added as follows:

§ 165.T0585 Security Zone: Chesapeake Bay, James River, Port of Hampton Roads, Virginia

(a) *Location.* The following area is a security zone: The grounds of the Newport News Marine Terminal, Newport News, Virginia, enclosed by a fence surrounding the perimeter, and the waters of the James River within 200 yards of the piers of Newport News Marine Terminal, encompassed by a line drawn southwesterly from the shoreline at position 36–58–09.2N latitude, 76–25–43.OW longitude to a point at 36–58–00.ON latitude, 76–25–58.1W longitude, thence northwesterly to a point at 36–58–19.5N latitude, 76–26–13.1W longitude, and returning northeasterly to the shoreline at position 36–58–27.0N latitude, 76–25–58.4W longitude.

(b) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf. The following officers have or will be designated by the Captain of the Port: the senior Coast Guard boarding officer on each vessel enforcing the security zone, the senior member of each Coast Guard maritime Security Patrol, the Coast Guard Officer of the Day at Newport News Marine Terminal and the Duty Officer at the Marine Safety Office, Norfolk, VA.

(1) The Captain of the Port, Hampton Roads and the Duty Officer at the Marine Safety Office, Norfolk, Virginia can be contacted at telephone number (804) 441–3307.

(2) The senior boarding officer on each vessel enforcing the security zone can be contacted on VHF-FM channel 13 and 16.

(c) *Regulation.* (1) In accordance with the general regulations in 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia.

(2) The operator of any vessel in the immediate vicinity of this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(3) Any individual inside the perimeters of the fence surrounding Newport News Marine Terminal shall be subject to the direction and control of any commissioned, warrant or petty officer of the United States Coast Guard.

(d) *Effective date.* This regulation is effective from December 4, 1990 and shall terminate on or about December 31, 1990 unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia.

Dated: December 4, 1990.

M.F. Pettingill,

Commander, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 90–29164 Filed 12–12–90; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 434

[MB-012-F]

RIN 0938—AD31

Medicaid Program; Modification of Certain Requirements for Health Insuring Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements statutory changes which expressly made certain Health Insuring Organizations (HIOs) subject to Medicaid Health Maintenance Organization (HMO) rules. The statute implemented in this rule requires that an HIO which became operational on or after January 1, 1986, and arranges for comprehensive health services for Medicaid recipients on a risk basis be subject to HMO requirements. The statute also provides that exemptions from certain HMO rules are permitted for HIOs which began operation on or after January 1, 1986, if the HIOs are operating under a section 1915(b) waiver obtained prior to that date, or if an HIO is otherwise identified in the law. The exemptions continue as long as the waiver under section 1915(b) of the Social Security Act remains in effect.

The statutory provisions implemented in this rule were enacted in section 9517(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 9435(e) of the Omnibus Budget Reconciliation Act of 1986, and section 1895(c)(4) of the Tax Reform Act of 1986.

EFFECTIVE: These rules are effective January 14, 1991.

FOR FURTHER INFORMATION CONTACT: Jane McClard, (301) 966–5321.

SUPPLEMENTARY INFORMATION:

I. Background

A. Health Insuring Organizations—General

For a number of years, the Medicaid regulations have expressly permitted States to contract with entities the regulations have called health insuring organizations (HIOs). An HIO is an entity which assumes the risk for the costs of medical services provided to Medicaid recipients in exchange for a fixed premium paid by the State agency. HIOs are paid a negotiated, fixed amount per beneficiary per month and, in return, pay for costs actually incurred in providing Medicaid covered services to the beneficiary in that month.

The original regulations providing for State contracts with HIOs were promulgated pursuant to the Secretary's broad authority under section 1902(a)(4)(A) of the Social Security Act (the Act), to provide for "such methods of administration * * * as are found by the Secretary to be necessary for the proper and efficient operation of the plan," and under section 1903(a)(1)(C) of the Act (dealing with Federal sharing of Medicaid costs) that makes available funds with certain restrictions (amount, duration, scope) for sharing the costs for "insurance premiums for medical or any other type of remedial care or the cost thereof".

An HIO differs from a health maintenance organization (HMO) in that HIOs generally pay for services whereas an HMO generally provides or arranges for most services. In recent years, some HIOs have made arrangements through contracts with community providers, including HMOs, doctors, hospitals, and others, for the provision of Medicaid services in a given area for groups of recipients.

Regulations containing the only Medicaid requirements for HIOs that were in effect prior to the statutory changes implemented in this rule are currently set forth at 42 CFR 434.14 (redesignated at 42 CFR 434.40 in this rule).

B. Relationship of HIOs to Other Program Activities

Under section 1915(b) of the Act, the Secretary has the authority to waive provisions of section 1902 of the Act, if such waivers are determined to be cost effective, provided the waivers, (1) do not substantially impair recipient access to services of adequate quality where medically necessary, (2) do not restrict a recipient's access to emergency services, and (3) are not inconsistent with the purposes of title XIX. Waivers requested by States under section 1915(b) of the Act must be for one or more of the following: Use of primary care case management systems; specialty physicians' services arrangements; use of localities as central broker of health service; sharing with recipients of cost savings from the use of more cost effective care; or restriction on the providers from whom recipients can obtain covered services to those selected on the basis of demonstrated effectiveness or efficiency. Only section 1902 provisions may be waived. The requirements for statewideness in section 1902(a)(1), comparability of services in section 1902(a)(10), and freedom of choice in section 1902(a)(23) of the Act are the most frequently waived provisions under section 1915(b).

Several States requested and received waivers under section 1915(b)(1) in order to implement primary care case management systems in which HIOs arrange for recipients' health care services through contracts with providers and assume risk for the cost of these services.

C. Current Regulations

The existing regulations expressly governing HIOs at 42 CFR 434.14 (redesignated at 42 CFR 434.40 in this rule) require an HIO to meet specified requirements if it wishes to contract with a State agency to serve as a payer for medical services provided to Medicaid recipients. These include requirements that capitation fees paid by the State cannot exceed the cost of the same services for a group of recipients receiving those services on a fee-for-service basis; that capitation fees paid to the HIO can only be renegotiated annually (in most cases), and place the HIO at risk; that capitation fees will not include amounts to enable the HIO to recover specific losses for risks it assumes during a contract period; that the underwriting risks assumed by the HIO must be specified in the contract between the State and the HIO; that the contract must state how any savings which remain after allowable costs are deducted from capitation fees are to be handled; that the contract must specify the extent to which an HIO may obtain reinsurance of its underwriting risk; and that the actuarial basis for computation of capitation fees must be specified.

In addition, the current regulations expressly require that HIOs meet requirements in regulations at 42 CFR 434.6 that apply to State agency contracts generally. These regulations specify contract requirements relating to recipients served; enrollment rules; covered services; inspections and evaluation of services provided; contract termination procedures; record systems; confidentiality; third party liability and subcontracting. Subcontractors, though not directly contracting with the State, must meet all Medicaid requirements appropriate to their delegated service activity. In addition, as the result of the legislation described in section II. A. below, regulatory requirements applicable to HMOs also currently apply to HIOs to the extent applicable.

II. New Legislation

A. Consolidated Omnibus Budget Reconciliation Act of 1985

Section 9517(c) of Public Law 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), amended section 1903(m)(2)(A) of the

Act by identifying HIOs as organizations subject to HMO requirements under section 1903(m) of the Act, if they are involved in the delivery of services themselves or through arrangements with providers of services. This amendment is effective for HIOs which became operational on or after January 1, 1986, with one exception. HIOs that operate under the authority of a section 1915(b) waiver granted a State prior to that date, but which did not become operational until after it, are exempt from the HMO requirements at section 1903(m)(2)(A)(ii) and (vi) of the Act, which pertain to composition of enrollment and the right to terminate enrollment freely at any time.

Note: Section 9517(C)(2)(B) of COBRA erroneously identified the exception clauses as (ii) and (iv). These should have been (ii) and (vi). Section 1895(c)(4)(B) of Public Law 99-514, the Tax Reform Act of 1986 (TRA) corrected this error.

The conference report accompanying section 9517(c) of COBRA specifically noted the absence in our existing regulations of: Minimum qualifications expressly applicable to an HIO that arranges for provisions of services; quality assurance methods that HIOs must employ; standard to assure access to services; amounts of savings that may be retained; and frequency or content of utilization or financial reports (H. Conf. Rep. No. 453, 99th Cong., 1st Sess. (1985), pp. 550–551). The report also noted that these HIOs were not subject to specific regulatory requirements regarding financial reporting or ownership information.

The effect of the revision made by COBRA is to subject HIOs that do more than merely act as a payer of services to regulatory requirements applicable to HMOs. The conference report accompanying COBRA clarified that:

> where an HIO does more than simply act as a fiscal agent to review and process claims for payment, but actually arranges with other providers (through subcontract or otherwise) for delivery of services to Medicaid eligibles (even though the HIO does not itself deliver services), it is subject to all of the regulatory requirements to which any health maintenance organization or similar prepaid entity is subject under current law. (H. Conf. Rep. No. 453, 99th Cong., 1st Sess. (1985), pp. 550–551.)

The COBRA amendment exempts HIOs in operation before January 1, 1986 from HMO requirements, and permits HIOs which operate under the authority of a section 1915(b) waiver granted a State prior to January 1, 1986 to be exempt during the period of the waiver from the HMO provisions requiring that membership be less than 75 percent Medicare/Medicaid and that enrollees may terminate enrollment without cause at any time.

B. Omnibus Budget Reconciliation Act of 1986

Section 9435(e) of Public Law 99-509, the Omnibus Budget Reconciliation Act of 1986 (OBRA 86), amended section 9517(c)(2) of COBRA by adding a new subparagraph (D). This change stated that "nothing in section 1903(m)(1)(A) of the Social Security Act shall be construed as requiring an HIO to be organized under the HMO laws of a State". The conference report pertaining to section 9435(e) of OBRA 86 stated that in order to meet the requirement in section 1903(m)(2)(A)(i) of the Act, the HIO is only required to be organized under the laws of the State in which it does business, including the State's corporation law. The report states an HIO organized under the corporation law in the State in which it operates, which makes services accessible as required by section 1903(m)(1)(A)(i) of the Act, and which has made adequate provision against the risk of insolvency as required by section 1903(m)(1)(A)(ii) of the Act, has met the requirement of section 1903(m)(1)(A)(i) of the Act (H. Rep. No. 1012, 99th Cong. 2d Sess. (1986) pp. 411–412)).

C. Tax Reform Act of 1986

Section 1895(c)(4)(A) of Public Law 99-514, the Tax Reform Act of 1986 (TRA), amended section 9517(c)(2) of COBRA by adding that a health insuring organization is not considered operational until the date on which it first enrolls patients. Under an earlier HCFA interpretation (given to State agency), operational meant the date an HIO began administrative processes to carry out the provision of Medicaid services. In addition, section 1895(c)(4)(C) of TRA provided that the Hartford Health Network, Inc., is exempt from clauses (ii) and (vi) of section 1903(m)(2)(A) of the Act (concerning composition of enrollment and disenrollment without cause) during the period it has a section 1915(b) waiver in effect (if the request for a waiver under section 1915(b) of the Act was submitted before January 1, 1986 and is subsequently approved by the Secretary).

III. Notice of Proposed Rulemaking

On August 25, 1988 we published a proposed rule with a 60 day comment period (53 FR 32406) that would revise 42 CFR part 434 by redesignating subparts D and E as subparts E and F respectively, and adding a new subpart D. Briefly these proposed changes to the regulations would:

- Incorporate changes made by legislation by expressly setting forth in regulations the scope of responsibilities for an HIO under Medicaid.
- Describe the requirements for contracts with HIOs.
- Specify special rules for certain HIOs.
- Reflect the statutory requirement that an HIO that becomes operational on or after January 1, 1986 and arranges with other providers (through subcontract or through other arrangements) for the delivery of services to Medicaid enrollees on a prepaid capitation risk basis, be subject to requirements for HMOs and be organized under the appropriate laws, including corporation laws, of the State in which it operates.
- Provide that any HIO subject to the special rules that operates under a section 1915(b) waiver obtained by the State prior to January 1, 1986, is exempt from the requirements for composition of enrollment and disenrollment without cause during the effective period of the waiver.

IV. Analysis of and Responses to Public Comments

In response to the August 25, 1988 proposed rule, we received two timely items of correspondence. The comments were from a State agency and an HIO operating under a section 1915(b) waiver. A summary of these comments and our responses to them are discussed below:

Comment: One commenter expressed the view that the proposed rules imposed upon an HIO which arranges for the provision of services are excessively restrictive, will deprive recipients of the opportunity to benefit from such HIO programs, and will prevent the implementation of similar HIO programs in the future.

Response: The proposal concerning operation of an HIO program which (in addition to normal bill processing and paying services) arranges for the provision of services reflects statutory provisions included in COBRA. The aim of the legislation was to increase recipient protection by subjecting an HIO which arranges for services to the same rules which any HMO or similar organization that performs similar activities must meet. The change assures recipients who enroll in an HIO that the organization meets standard Medicaid requirements.

Comment: One commenter felt the new regulations deprive the States of flexibility in using HIOs to serve

Medicaid recipients. The commenter suggested that publication of a final rule should be delayed until the law could be amended to restore the lost flexibility.

Response: This regulation, which incorporates a change in the Medicaid statute, only removed one type of capitation arrangement from those which States may use for Medicaid recipients. Although we agree that the elimination of one type of program reduces States flexibility in programs it may offer recipients, the changes reflected in this rule were made by section 9517(c) of COBRA, which was effective January 1, 1986. In view of this, we do not agree that delay of publication of a final rule is warranted.

Comment: One commenter expressed concern that an HIO which was operational prior to January 1, 1986 and participated in a Federal demonstration project under section 1115 of the Act would not be permitted to participate in a section 1915(b) waiver that began after that date.

Response: An HIO which was in operation prior to January 1, 1986, and which arranges for the provision of services to its Medicaid enrollees, is not subject to the COBRA amendments reflected in these regulations. The Conference Report which accompanied section 9517 of COBRA explicitly stated that the new rule only "applies to entities that first become operational after January 1, 1986". (In the actual amendment of the law, section 9517(c) of COBRA, the phrase "on or after January 1, 1986", is used. This date was also used in the proposed rule.) Consequently, it is irrelevant whether an HIO that became operational before January 1, 1986 participated in a section 1115 demonstration project or a section 1915(b) Freedom of Choice program prior to January 1, 1986. (If the HIO became operational on or after January 1, 1986, however, it would be subject to the COBRA amendments implemented in this rule even if it operated under a section 1115 demonstration project that began prior to January 1, 1986.)

Upon reviewing § 434.44(b), as a result of this comment, we found that the language was not clear with respect to the role of the State in a section 1915(b) waiver application. As noted below, we are revising our § 434.44(b) to clarify that a section 1915(b) waiver is granted to the State and not to an organization which contracts with the State.

V. Provisions of the Regulations

After consideration of the comments received and our further analysis of specific issues, we are publishing as final the August 25, 1988 rule as proposed with several technical revisions.

In § 434.2, we have revised the definition of health insuring organization (HIO) to encompass HIOs that arrange for services. This revision reflects the reality recognized by Congress in COBRA.

In § 434.2, we also have revised the definition of a PHP by replacing the phrase "does not qualify as an HMO" with "is not subject to the requirements in section 1903(m)(2)(A)". This revision more clearly articulates what was meant by the original language, and does not change existing law, or HCFA's interpretation thereof.

In § 434.20, we have added a new paragraph (a)(4) to reflect the fact that a State may have a comprehensive risk contract with an HIO that became operational before January 1, 1986.

In § 434.21(b), we have added the words "or arranges" to reflect the statutory requirement that entities that "arrange for" services are subject to HMO requirements.

In § 434.40, we are revising introductory language to clarify that these contract requirements apply to HIOs which are not subject to section 1903(m)(2)(A).

We have also combined the proposed § 434.40 with proposed § 434.42 in order to make it clear that the later rules apply only when HMO rules do not.

As noted above in response to a comment, we have revised § 434.44(b) to clarify that section 1915(b) waivers are granted to States.

Finally, in analyzing the issues raised by this final rule, we have determined that further revisions to the regulations are warranted. We believe that it would be inconsistent with Congressional intent to permit an HIO which arranges for services, yet is not subject to HMO rules, to remain subject only to the original HIO rules now in § 434.40. Due to our oversight, however, we set forth in the proposed regulations published on August 25, 1988, proposed rules which would permit an HIO that arranges to provide less than comprehensive services on a risk basis or comprehensive services on a cost basis, to be subject only to the rules governing HIOs which perform the original basic HIO services of bill payer and processor. We believe this situation is not appropriate in light of the COBRA changes implemented in this rule. Therefore, we intend to publish in a separate proposed rule revisions to the regulations that would make HIOs that arrange for services subject to PHP rules if they are exempt from section 1903(m)(2)(A).

VI. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule is defined as any regulation that is likely to result in: An annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, we generally prepare a final regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a regulation would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all HIOs as small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if the final rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis also must conform to the provision of section 604 of the RFA.

This final rule generally reflects current implementation of previous statutory changes and serves only to codify in regulations those practices that already have been implemented. This rule, in itself, will have no effect on Medicaid program expenditures.

We believe that the changes reflected in this rule ensure consistency in the treatment of organizations which provide or arrange for the provision of services and will not result in significant increased costs. Currently, there are seven HIOs with State Medicaid contracts, three of which have been extended 1915(b) waivers and four that are not engaged in either arranging or providing services. Therefore, we do not expect a significant economic impact on these entities.

For these reasons, we have determined that the threshold criteria of E.O. 12291 will not be met, and a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that these regulations will not have a significant economic impact on a substantial number of small entities and will not have a significant impact on the

operations of a substantial number of small rural hospitals.

Therefore, we have not prepared analyses under the RFA or under section 1102(b) of the Act.

VII. Information Collection Requirements

Section 434.40 of this final rule contains information collection requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980. Section 434.40 requires State Medicaid contracts to specify required contractual information. It also requires that capitation fee information be specified in the contract. Public reporting burden for this collection of information is estimated at 1 hour per response. A notice will be published in the **Federal Register** when approval is obtained.

List of Subjects in 42 CFR Part 434

Grant programs-health, Health maintenance organizations (HMO), Medicaid, Reporting and recordkeeping requirements.

42 CFR part 434 is amended as set forth below:

PART 434—CONTRACTS

1. The authority citation for part 434 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The heading for subpart B is revised to read as follows:

Subpart B—Contracts With Fiscal Agents and Private Nonmedical Institutions

3. Section 434.2 is amended by revising the definitions of "health insuring organization (HIO)" and "prepaid health plan (PHP)" to read as follows:

§ 434.2 Definitions.

* * * * *

Health insuring organization (HIO) means an entity that—

(a) Covers (through payments or arrangements with providers) services for recipients in exchange for a premium or subscription charge paid; and

(b) Assumes risk for the costs of services it covers.

* * * * *

Prepaid health plan (PHP) means an entity that provides medical services to enrolled recipients, under contract with the Medical agency and on the basis of prepaid capitation fees, but is not subject to requirements in section 1903(m)(2)(A) of the Act.

* * * * *

§ 434.14 [Removed and Reserved]

4. Section 434.14 is removed and reserved.

Subpart C—Contracts With HMOs and PHPs: Contract Requirements

5. In § 434.20, paragraphs (a) and (e) are revised to read as follows:

General Requirements

§ 434.20 Basic rules.

(a) *Entities eligible for risk contracts for services specified in § 434.21.* A Medicaid agency may enter into a risk contract for the scope of services specified in § 434.21, only with an entity that—

(1) Is a Federally qualified HMO, including a provisional status Federally qualified HMO;

(2) Meets the State plan's definition of an HMO, as specified in paragraph (c) of this section;

(3) Is one of several entities identified in section 1903(m)(B) (i), (ii) and (iii) of the Act, and considered as PHDs; or

(4) Is an HIO that arranges for services and becomes operational before January 1, 1986.

* * * * *

(e) *Requirements for all contracts.* For all contracts with HMOs or PHOs—

(1) The contract must meet the requirements of § 434.6;

(2) The Medicaid agency must carry out the responsibilities specified in subpart E of this part; and

(3) The contract must provide that any cost-sharing requirements imposed for services furnished to recipients are in accordance with §§ 447.50 through 447.58 of this chapter.

§ 434.21 [Amended]

6. In § 434.21(b) introductory text, the phrase "or arranging for" is inserted after the word "furnishing."

Subpart E and F—[Redesignated From Subparts D and E]

7. Subparts D and E are redesignated as subparts E and F, respectively, and a new subpart D is added to read as follows:

Subpart D—Contracts With Health Insuring Organizations

Subpart D—Contracts With Health Insuring Organizations

§ 434.40 Contract requirements.

(a) Contracts with health insuring organizations that are not subject to the requirements in section 1903(m)(2)(A) must:

(1) Meet the general requirements for all contracts and subcontracts specified in § 434.6;

(2) Specify that the contractor assumes at least part of the underwriting risk and;

(i) If the contractor assumes the full underwriting risk, specify that payment of the capitation fees to the contractor during the contract period constitutes full payment by the agency for the cost of medical services provided under the contract;

(ii) If the contractor assumes less than the full underwriting risk, specify how the risk is apportioned between the agency and the contractor;

(3) Specify whether the contractor returns to the agency part of any savings remaining after the allowable costs are deducted from the capitations fees, and if savings are returned, the apportionment between agency and the contractor; and

(4) Specify the extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk.

(b) The contract must—

(1) Specify that the capitation fee will not exceed the limits set forth under part 447 of this chapter.

(2) Specify that, except as permitted under paragraph (b) of this section, the capitation fee paid on behalf of each recipient may not be renegotiated—

(i) During the contract period if the contract period is 1 year or less; or

(ii) More often than annually if the contract period is for more than 1 year.

(3) Specify that the capitation fee will not include any amount for recoupment of any specific losses suffered by the contractor for risks assumed under the same contract or a prior contract with the agency; and

(4) Specify the actuarial basis for computation of the capitation fee.

(c) The capitation fee may be renegotiated more frequently than annually for recipients who are not enrolled at the time of renegotiation or if the renegotiation is required by changes in Federal or State law.

§ 434.44 Special rules for certain health insuring organizations.

(a) A health insuring organization that first enrolls patients on or after January 1, 1986, and arranges with other providers (through subcontract, or

through other arrangements) for the delivery of services (as described in § 434.21(b)) to Medicaid enrollees on a prepaid capitation risk basis is—

(1) Subject to the general requirements set forth in § 434.20(d) concerning services that may be covered and § 434.20(e) which set forth the requirements for all contracts, the additional requirements set forth in §§ 434.21 through 434.38 and the Medicaid agency responsibilities specified in §§ 434.50 through 434.65; and

(2) To be organized under the appropriate laws, including corporation laws, of the State in which it operates. There is no Federal requirement that an HIO be organized under a State's HMO law, if it has one. However, the health insuring organization must meet the State plan definition requirements in § 434.20(c) (1), (2) and (3) of this chapter.

(b) *Special exemption.* Any health insuring organization subject to the requirements in paragraph (a) of this section, that is operating under the authority of a waiver granted to a State under section 1915(b) of the Act prior to January 1, 1986, is exempt from those requirements relating to composition of enrollment and disenrollment without cause in §§ 434.26 and 434.27(b), during the effective period of the waiver, including extensions and renewals.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

Dated: August 23, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: October 15, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-29162 Filed 12-12-90; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-344; RM-6674, RM-7157]

Radio Broadcasting Services; Rosamond and California City, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 228A to Rosamond, California, as that community's second local FM service, in response to a petition for rule making filed on behalf of P. Dale Ware (RM-6674). See 54 FR 33249, August 14, 1989. Additionally, Channel 295A is allotted to California City, California, as that community's first local broadcast service, in response to a counterproposal filed on behalf of California City Radio (RM-7157). Coordinates used for Channel 228A at Rosamond are 34-56-56 and 118-14-07. Coordinates used for Channel 295A at California City are 35-11-13 and 117-58-14. (See **SUPPLEMENTARY INFORMATION,** *infra.*) With this action, the proceeding is terminated.

DATES: Effective January 24, 1991; the window period for filing applications for Channel 228A at Rosamond, California, and for Channel 295A at California City, California, will open on January 25, 1991, and close on February 25, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-344, adopted November 15, 1990, and released December 10, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Interested parties should note that the petition for rule making at Rosamond was filed prior to October 2, 1989, and, therefore, applicants for Channel 228A at that community may avail themselves of the provisions of § 73.213(c) of the Commission's Rules. See 47 CFR 73.213(c). The California City proposal was filed after October 2, 1989. Applications for Channel 295A at that community must conform with the minimum distance separation requirements specified in § 73.207(b) of the Commission's Rules.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 295A at California City and by adding Channel 228A at Rosamond.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-29251 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-499; RM-6928]

Radio Broadcasting Services; Sparta and Saint Robert, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 243C2 for Channel 243A at Sparta, Missouri, and modifies the license for Station KLTQ to specify operation on Channel 243C2, in response to a petition by James L. Gardner. The coordinates for Channel 243C2 are 36-56-23 and 93-17-15. To accommodate the upgrade at Sparta, we shall substitute Channel 255A for vacant Channel 243A at Saint Robert. The applicant for Channel 243A at Saint Robert, Neil A. Rones and Luann C. Dahl, will be permitted to amend their application to a non-short spaced site and retain cut-off protection. The coordinates for Channel 255A are 37-49-41 and 92-10-39.

EFFECTIVE DATES: January 24, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-499, adopted November 15, 1990, and released December 10, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Missouri by removing Channel 243A and adding Channel 243C2 at Sparta, and removing channel 243A and adding Channel 255A at Saint Robert.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-29252 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 89-171]

Radio Broadcasting Services; Alamogordo, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of New West Broadcasting Co., substitutes Channel 232C3 for Channel 232A at Alamogordo, New Mexico, and modifies the license for Station KYEE to specify operation on the higher powered channel. See 54 FR 26220, June 22, 1989. Channel 232C3 can be allotted to Alamogordo in compliance with the Commission's minimum distance separation requirements and can be used at Station KYEE's licensed transmitter site. The coordinates for Channel 232C3 at Alamogordo are North Latitude 32-56-42 and West Longitude 105-56-47. Mexican concurrence has been received since Alamogordo is located within 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 24, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-171, adopted November 15, 1990, and released December 10, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 232A and adding Channel 232C3 at Alamogordo.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-29253 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 90-304; RM-7295]

Radio Broadcasting Services; Nyssa, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Robert M. Mason, substitutes Channel 254C1 for Channel 254A at Nyssa, Oregon, and modifies his construction permit for Station KGZH to specify operation on the higher powered Channel. See 55 FR 24908, June 19, 1990. Channel 254C1 can be allotted to Nyssa in compliance with the Commission's minimum distance separation requirements with a site restriction of 52.8 kilometers (32.8 miles) south to avoid short-spacings to Stations KUBQ(FM), Channel 254C2, La Grande, Oregon, and KWEI-FM, Channel 257A, Weiser, Idaho, and to accommodate petitioner's desired transmitter site. The coordinates for Channel 254C1 at Nyssa are North Latitude 43-25-01 and West Longitude 116-50-38. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 24, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-304, adopted November 14, 1990, and released December 10, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 254A and adding Channel 254C1 at Nyssa.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-29254 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 90-371; RM-7215]

Radio Broadcasting Services; Exmore, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Seashore Broadcasting Company, substitutes Channel 291B1 for Channel 291A at Exmore, Virginia, and modifies its construction permit (BPH-880324MP) for station WPHG(FM) to specify operation on the higher class channel. See 55 FR 33946, August 20, 1990. Channel 291B1 can be allotted to Exmore, Virginia, in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.5 kilometers (1.6 miles) north of Exmore to accommodate petitioner's desired transmitter site. The coordinates for Channel 291B1 are North Latitude 37-33-15 and West Longitude 75-49-38. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 24, 1991.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-371, adopted November 15, 1990, and released December 10, 1990. The full text

of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 291A and adding Channel 291B1 at Exmore.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-29255 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register

Vol. 55, No. 240

Thursday, December 13, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 919

[Docket No. AO-102-A6; FV 88-132]

Peaches Grown in Mesa County, Colorado; Termination of Proposed Amendment Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rulemaking and termination of proceeding.

SUMMARY: This action terminates amendment proceedings on proposed changes to the marketing order for peaches grown in Mesa County, Colorado. None of the proposed amendments were favored by the required two-thirds majority of growers voting or the required two-thirds volume produced by those voting in the referendum. The proposed changes would have: (1) Authorized the regulation of shipments of fresh peaches grown in Mesa County to locations within the State; (2) amended six existing definitions and added three new definitions to the order; (3) reapportioned membership on the Administrative Committee (committee) and added informal rulemaking authority to reapportion committee membership and change committee size and composition; (4) revised the committee nomination and selection process, added informal rulemaking authority to make changes in the process, and established limits on the tenure of committee members; (5) increased the amount of committee compensation, added rulemaking authority to revise that compensation, and revised the voting procedures of the committee; (6) authorized late payment and interest charges on overdue assessments; (7) consolidated provisions regarding the regulation of shipments; (8) authorized the establishment and funding of production research projects; (9) added provisions for verification of reports and records and for maintaining confidentiality of handler records; (10) added informal rulemaking authority to change the minimum quantity of peaches per shipment exempt from regulation and included an additional requirement that peaches purchased under such exemption be removed from the sellers' premises on the day of the sale; (11) required periodic referenda; and (12) made necessary conforming changes. The first ten changes were proposed by the committee and the last two changes were proposed by the Agricultural Marketing Service (AMS). All proposed amendments were designed to improve the administration, operation, and functioning of the marketing order.

DATES: This withdrawal is effective December 13, 1990.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone: (202) 475-3919, or Joseph C. Perrin, Northwest Marketing Field Office, 1220 SW Third Ave., room 369, Portland, Oregon 97204, telephone: (503) 326-2724.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued November 1, 1988, and published in the **Federal Register** on November 3, 1988 (53 FR 44407); Recommended Decision issued November 20, 1989, and published in the **Federal Register** on November 24, 1989 (54 FR 48619); Extension of Comment Period issued February 13, 1990, and published in the **Federal Register** on February 20, 1990 (55 FR 5852); Secretary's Decision and Referendum Order on Proposed Further Amendment of Marketing Agreement and Order No. 919 issued August 31, 1990, and published in the **Federal Register** September 7, 1990 (55 FR 36825).

This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore is not subject to the requirements of Executive Order 12291 and Departmental Regulation 1512-1.

The proposed amendments to the order were formulated on the record of a public hearing held at Palisade, Colorado, on November 16 and 17, 1988, to consider proposed further amendment of Marketing Agreement and Order No. 919 (7 CFR part 919), both as amended, regulating the handling of peaches grown in Mesa County, Colorado, hereinafter referred to collectively as the order. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained amendment proposals submitted by the committee which locally administers the order.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, AMS, on November 20, 1989, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision containing a notice of the opportunity to file written exceptions thereto. At the request of one peach grower, the comment period was extended two months to February 28, 1990. The Deputy Assistant Secretary, on August 31, 1990, issued a final decision setting forth the proposed amendments as a means of further effectuating the declared policy of the Act. The final decision directed that a referendum be conducted among producers in the production area to determine whether or not the required percentage of producers favored issuance of the proposed amendments.

It is hereby determined on the basis of the referendum conducted during the period September 14 through October 11, 1990, that all of the proposed amendments failed to receive the required two-thirds vote by count and by volume, and therefore, the proposed amendments to the marketing order should not be made effective. Accordingly, the proposed rule issued September 7, 1990, is hereby withdrawn and the proceedings with respect to the proposed amendments are terminated.

List of Subjects in 7 CFR Part 919

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

The authority citation for 7 CFR part 919 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Dated: December 5, 1990.

John E. Frydenlund,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 90-29204 Filed 12-12-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Ch. VII

[Docket No. 901113-0313]

Request for Comments on Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Request for comments on foreign policy-based export controls.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the foreign policy-based export controls in the Export Administration Regulations (15 CFR parts 730 through 799) to determine whether they should be modified, rescinded or extended. To help BXA make this determination, BXA is seeking comments on how existing foreign policy-based export controls contained in the Export Administration Regulations have affected exporters and the general public.

DATES: Comments must be received by December 21, 1990 to assure full consideration in the formulation of export control policies.

ADDRESSES: Written comments (six copies) should be sent to Patricia Muldonian, Regulations Branch (room 1622), Office of Technology and Policy Analysis, Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: John Bolsteins, Country Policy Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-4830.

SUPPLEMENTARY INFORMATION: The foreign policy controls maintained by the BXA apply to human rights (776.14); South Africa (785.4(a)); embargoed communist countries (785.1); anti-terrorism (785.4(d) and 785.4(e); Libya (785.7); regional stability (776.16); equipment and technical data used for missile technology purposes (776.18); and chemical and biological agents (776.19). The licensing policies for these control programs are described in parts 776 and 785 of the Export Administration Regulations.

On January 19, 1990, the Secretary of Commerce submitted a report to Congress extending for another year, with one exception, all foreign policy controls then in effect. One control, on exports to the Soviet Union's Kama River and ZIL truck plants, was not extended. That report also contained a newly imposed foreign policy export control, on certain propellant batch mixers pertinent to the Missile Technology Control Regime. Since that last report no new foreign policy controls have been imposed.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy controls for another year. Among the criteria BXA considers in determining whether to continue or revise U.S. foreign policy export controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose in light of such other factors as the availability from other countries of the goods or technology proposed for such controls;

2. That the foreign policy purpose of such controls cannot be achieved through negotiations or other alternative means;

3. The compatibility of the proposed controls with the foreign policy objectives of the United States and with overall United States policy toward the country to which exports are to be subject to the proposed controls;

4. The likelihood that the reaction of other countries to the extension of such controls by the United States will not render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;

5. Whether the effect of the proposed controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, or the economic well-being of individual United States companies and their employees and communities exceeds the benefit to United States foreign policy objectives; and

6. The ability of the United States to enforce the proposed controls effectively.

BXA is particularly interested in the experience of individual exporters in complying with these controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BXA is also interested in comments relating to the effects of foreign policy controls on exports of replacement and other parts.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BXA in reviewing the controls and developing the report to Congress.

BXA will consider requests for confidential treatment. The information for which confidential treatment is requested should be submitted to BXA separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information". BXA will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by BXA as confidential will be protected from public disclosure to the extent permitted by law.

Communication between agencies of the United States Government or with foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will be also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about inspection and copying of records at this facility may be obtained from Margaret Cornejo, BXA Freedom of Information Officer, at the above address or by calling (202) 377-5653.

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-445 of December 29, 1981, Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 91 Stat. 1625, 50 U.S.C. 1701 *et seq.*, E.O. 12532 of

September 9, 1985 (50 FR 36881 of September 10, 1985); E.O. 12730 of September 30, 1990 (55 FR 40373 of October 2, 1990).

Dated: December 7, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-29148 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 701 and 702

[IA-74-90]

RIN 1545-AP21

Financing of Presidential Election Campaigns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under new Part 701, Presidential Election Campaign Fund ("Fund"), and new Part 702, Presidential Primary Matching Payment Account, of title 26 of the CFR, relating to the financing of presidential election campaigns. The proposed regulations clarify issues arising under sections 9006, 9008, and 9037 of the Internal Revenue Code of 1986, including the timing of certain transfers to the Fund, the establishment of certain accounts within the Fund, the transfer of certain amounts to such accounts, and the allocation of amounts where the amounts are insufficient to fully satisfy all valid claims for payment. The proposed regulations are necessary, because it is anticipated that, for the 1992 and subsequent presidential elections, there will not be sufficient amounts in the Fund to satisfy all valid claims for payment at the time such claims are presented. The proposed regulations affect all eligible recipients of amounts from the Fund.

DATES: Written comments must be received by February 11, 1991.

ADDRESSES: Send comments to: Internal Revenue Service, Attn. CC:CORP:T:R [IA-74-90], Room 4429, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Joel S. Rutstein of the Office of Assistant Chief Counsel (Income Tax and Accounting), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attn. CC:CORP:T:R (IA-74-90)) or telephone 202-566-4430 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 6096, individuals whose income tax liability for the taxable year is $1 or more may designate $1 for the Fund on their tax returns. Section 9006(a), establishes the Fund and requires the Secretary to transfer monies—not in excess of the sum of the amounts designated—to the Fund. Three types of payments are made from the Fund: payments to the national committee of each major and minor party, payments to the eligible candidates of a political party for President and Vice President, and payments to eligible candidates seeking nomination for election to be President.

Section 9008 requires the Secretary to maintain a separate account in the Fund for payments to the national committee of each major and minor party for their presidential nominating conventions, to be made upon receipt of certification by the Federal Election Commission ("Commission"). The Secretary is required to fund this account before providing for payments to eligible candidates for President and Vice President as specified in section 9006(b). Section 9037(a) directs the Secretary to establish within the Fund an additional separate account, the Presidential Primary Matching Payment Account. The Secretary is directed to make deposits into this account only after determining that amounts for the payments under sections 9008(b)(3) and 9006(b) "are available." Section 9037(b) requires the Secretary to transfer amounts certified by the Commission from the Presidential Primary Matching Payment Account to candidates seeking nomination for President. Code section 9037(b) also provides that "[i]n making such transfers to candidates of the same political party, the Secretary shall seek to achieve an equitable distribution of funds available under subsection (a), and the Secretary shall take into account, in seeking to achieve an equitable distribution, the sequence in which . . . certifications [from the Commission] are received."

Section 9008(e) provides that the national committees of major and minor parties may receive their payments beginning on July 1 of the calendar year immediately prior to their nominating conventions. Under sections 9006(b) and 9005(a), no payments can be made to the candidates of a major or minor party until they are nominated. Finally, section 9032(6) provides that primary candidates may receive payments under section 9037(b) beginning on the first day of the calendar year of the presidential election.

It is anticipated that, for the 1992 and subsequent presidential elections, there will not be sufficient amounts in the Fund to satisfy all valid claims for payment at the time such claims are presented. Therefore, regulations prescribing methods for allocating payments are necessary.

Explanation of Provisions

Proposed § 701.9006-1(a) provides that the Secretary shall promptly determine at least once a month the amounts designated to the Fund by individuals under section 6096 and promptly transfer those amounts to the Fund. Amounts transferred to the Fund after September 30 of the year following a presidential election shall only be used to satisfy certifications relating to future presidential elections.

Proposed § 701.9006-1(b) provides that the Secretary shall establish, within the Fund, three separate accounts, to be known as the Presidential Nominating Convention Account, the Presidential and Vice Presidential Nominee Account, and the Presidential Primary Matching Payment Account.

Proposed § 701.9006-1(c) provides that the Secretary shall deposit in the Presidential Nominating Convention Account such amounts as the Secretary determines, in consultation with the Federal Election Commission, are required to make the payments prescribed by section 9008(b)(3).

Proposed § 701.9006-1(d), provides that after making the transfers prescribed by § 701.9006-1(c), the Secretary shall deposit in the Presidential and Vice Presidential Nominee Account such amounts as the Secretary determines, in consultation with the Federal Election Commission, are required to make the payments prescribed by section 9006(b).

Proposed § 702.9006-1(e) provides that, after making the transfers prescribed by § 701.9006-1(c) to the Presidential Nominating Convention Account and § 701.9006-1(d) to the Presidential and Vice Presidential Nominee Account, the Secretary shall not make any additional deposits to those accounts until October 1 of the year after the presidential election.

Proposed § 702.9037-1 provides that, after making the transfers prescribed by § 701.9006-1(c) and § 701.9006-1(d), the Secretary shall deposit any amounts in the Fund into the Presidential Primary Matching Payment Account. The Secretary shall base this transfer only on amounts that have been actually transferred to the Presidential Election

Campaign Fund under proposed § 701.9006–1(a). Finally, any amount remaining in this account after October 31 of the year following a presidential election shall be re-transferred to the Fund.

Proposed § 702.9037–2(a) provides that, except as provided in proposed § 702.9037–2(b), upon receipt of certification from the Federal Election Commission for payment to candidates under section 9036, but not before the matching payment period described in section 9032(6), the Secretary shall promptly pay candidates amounts to which they are entitled. In addition, the Secretary shall promptly notify the Federal Election Commission of the amount of payments made to each candidate.

Proposed § 702.9037–2(b) provides that if the total amount certified by the Federal Election Commission in a calendar month exceeds the total amount in the Presidential Primary Matching Payment Account as of the last day of such month, the amount to be paid to a candidate will be an amount equal to the amount certified by the Commission for the candidate in the calendar month multiplied by the ratio of the amount in the account as of the last day of the calendar month over the total amount certified by the Commission for all the candidates in the calendar month. In addition, any amount certified by the Commission, but not paid to a candidate because of proposed § 702.9037–2(b), is treated as an amount certified by the Commission for the candidate in the succeeding calendar month.

Proposed § 702.9037–2(c) provides an example illustrating the rules in proposed § 702.9037–2(b).

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing has been scheduled for February 11, 1991. See notice of public hearing published elsewhere in this issue of the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Joel S. Rutstein, Office of the Assistant Chief Counsel (Income Tax and Accounting), Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects

26 CFR Part 701

Campaign funds, Political candidates, Elections.

26 CFR Part 702

Campaign funds, Administrative practice and procedure, Political candidates.

Proposed Amendments to the Regulations

Paragraph 1. Part 701 is added to read as follows:

PART 701—PRESIDENTIAL ELECTION CAMPAIGN FUND

Authority: 26 U.S.C. 7805.

§ 701.9006–1 Presidential Election Campaign Fund.

(a) *Transfer of amounts to the Presidential Election Campaign Fund.* The Secretary shall promptly determine at least once a month the amount designated by individuals under section 6096 to the Presidential Election Campaign Fund ("Fund") established under section 9006(a). The Secretary shall then promptly transfer from the general fund of the Treasury that amount to the Fund. Only amounts transferred to the Fund on or before September 30 following a presidential election shall be used to satisfy certifications relating to that presidential election.

(b) *Creation of separate accounts within the Presidential Election Campaign Fund.* The Secretary shall establish, within the Presidential Election Campaign Fund, three separate accounts, to be known as the Presidential Nominating Convention Account, the Presidential and Vice Presidential Nominee Account, and the Presidential Primary Matching Payment Account.

(c) *Transfer of amounts to the Presidential Nominating Convention Account.* The Secretary shall deposit in the Presidential Nominating Convention Account such amounts as the Secretary determines, in consultation with the Federal Election Commission, are required to make the payments prescribed by section 9008(b)(3).

(d) *Transfer of amounts to the Presidential and Vice Presidential Nominee Account.* After making the transfers prescribed by § 701.9006–1(c), the Secretary shall deposit in the Presidential and Vice Presidential Nominee Account such amounts as the Secretary determines, in consultation with the Federal Election Commission, are required to make the payments prescribed by section 9006(b).

(e) *Limits on additional deposits.* After making the transfers prescribed by § 701.9006–1(c) and § 701.9006–1(d) for a presidential election, the Secretary shall not make any additional deposits to those accounts until October 1 of the year after that presidential election.

(f) *Transfer of amounts to the Presidential Primary Matching Payment Account.* See § 702.9037–1 for rules relating to transfers of amounts to the Presidential Primary Matching Payment Account.

Par. 2. Part 702 is added to read as follows:

PART 702—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

Authority: 26 U.S.C. 7805.

§ 702.9037–1 Transfer of amounts to the Presidential Primary Matching Payment Account.

The Secretary shall deposit amounts into the Presidential Primary Matching Payment Account only to the extent that there are amounts in the Presidential Election Campaign Fund after the transfers prescribed by § 701.9006–1 (c) and (d). The Secretary shall base this deposit only on amounts that have been actually transferred to the Presidential Election Campaign Fund under § 701.9006–1(a). Any amounts in the account after October 31 following a presidential election shall be transferred back to the Presidential Election Campaign Fund for the purpose of making the transfers prescribed by

§ 701.9006-1 (c), (d), and (f) for the subsequent presidential election.

§ 702.9037-2 Payments from the Presidential Primary Matching Payment Account.

(a) In general. Except as provided in paragraph (b) of this section, upon receipt of a certification from the Federal Elected Commission ("Commission") for payment to a candidate under section 9036, but not before the beginning of the matching payment period under section 9032(6), the Secretary shall promptly transfer the amount certified by the Commission from the Presidential Primary Matching Payment Account to the candidate. The Secretary shall promptly notify the Commission of the transfers.

(b) Reductions of payments to candidates. If the total amount certified by the Commission in a calendar month exceeds the total amount in the Presidential Primary Matching Payment Account as of the last day of the calendar month, the amount paid to a candidate shall be an amount equal to the amount certified by the Commission for the candidate during the calendar month multiplied by the ratio of the amount in the account as of the last day of the calendar month over the total amount certified by the Commission for all the candidates during the calendar month. Any amount certified by the Commission, but not paid to a candidate because of this paragraph (b), will be treated as an amount certified by the Commission for that candidate during the succeeding calendar month.

(c) *Example.* The provisions of paragraph (b) of this section may be illustrated by the following example.

Example. X, Y, and Z are eligible candidates. On February 11, 1992, the Secretary receives certifications by the Commission for X in the amount of $2000x and Y in the amount of $500x. There is no certification for Z. The Secretary does not receive any other certifications during February 1992. On February 29, 1992, the amount in the Presidential Primary Matching Payment Account is $1500x. Under paragraph (b) of this section, X's payment for February 1992 will be $1200x ($2000x (the amount certified by the Commission for X during February 1992) multiplied by $1500x (the amount in the account as of the last day of February 1992) over $2500x (the total amount certified by the Commission for all candidates during February 1992)). The amount not paid to X, $800x ($2000x minus $1200x), is treated as certified by the Commission for X during March 1992, the succeeding calendar month. Under paragraph (b) of this section, Y's payment for February 1992 will be $300x ($500x multiplied by $1500x over $2500x). The amount not paid to Y, $200x ($500x minus $300x), is treated as certified by the Commission for Y during March 1992. On March 10, 1992, no certifications are received for X and Y, but the Secretary receives a certification by the Commission for Z in the amount of $2600x. The Secretary does not receive any other certifications during March 1992. On March 31, 1992, the amount in the account is $900x. Under paragraph (b) of this section, X's payment for March 1992 will be $200x ($800x (the amount treated as certified by the Commission for X during March 1992) multiplied by $900x (the amount in the account as of the last day of March 1992) over $3600x (the total amount treated as certified or actually certified by the Commission for all candidates during March 1992)). Under paragraph (b) of this section, Y's payment for March 1992 will be $50x ($200x multiplied by $900x over $3600x). Under paragraph (b) of this section, Z's payment for March 1992 will be $650x ($2600x multiplied by $900x over $3600x). The amounts not paid to X, Y, and Z for March 1992 are treated as certified by the Commission during April 1992.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90-29240 Filed 12-12-90; 8:45 am]

BILLING CODE 4830-01-M

---

26 CFR Parts 701 and 702

[IA-74-90]

RIN 1545-AP21

Financing of Presidential Election Campaigns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to financing of presidential election campaigns.

DATES: The public hearing will be held on Monday, February 11, 1991, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Monday, January 28, 1991.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IA-74-90), room 4427, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-343-0232 or 202-566-3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 9006, 9008, 9037 of the Internal Revenue Code of 1986. The proposed regulations appear in the proposed rules section of this issue of the **Federal Register**.

The rules of § 601.601(a)(3) of the "statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, January 28, 1991, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90-29241 Filed 12-12-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 325

RIN 0710-AA23

Proposal to Amend Permit Regulations for Controlling Certain Activities in Waters of the United States

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of extension of comment period.

SUMMARY: We are hereby extending the comment period on the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in the **Federal Register**, Vol. 55, No. 197, Thursday, October 11, 1990. The

comment period was to close December 10, 1990. We have received several requests for an extension and have decided to accept comments until December 31, 1990.

DATES: Written comments must be received by 31 December 1990.

ADDRESSES: Office of the Chief of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Chowning, Regulatory Branch, (202) 272-1781.

Dated: December 10, 1990.

Andrew M. Perkins, Jr.,

Colonel, U.S. Army, Acting Executive, Director of Civil Works.

[FR Doc. 90-29179 Filed 12-12-90; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

34 CFR Ch. IV

The Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of meeting to conduct a negotiated rulemaking session.

SUMMARY: The Assistant Secretary for Vocational and Adult Education of the U.S. Department of Education (Department) will convene a negotiating group—including Federal, State, and local education administrators, a representative of State councils on vocational education, members of local boards of education, representatives of parents and teachers, and special populations—to participate in a negotiated rulemaking process. This group will review draft proposed regulations developed following recent regional meetings at which selected issues were discussed related to the content of proposed regulations to be issued under the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, Public Law 101-392, 104 STAT. 753 (Perkins Amendments). The Department has arranged with the Federal Mediation and Conciliation Service to provide mediation for the negotiated rulemaking. The mediators will not be involved with the substantive development of the regulations. Their role will be to:

- Chair negotiating sessions;
- Help the negotiation process run smoothly; and
- Help participants define issues and reach consensus. The meeting is open to the public for individuals who wish to observe the process. Seating for observers will be limited to 40 chairs and provided on a first-come, first-served basis.

DATES: The meeting is scheduled for December 17-18, 1990. The meeting will begin at 8:30 a.m. on both days.

ADDRESSES: The meeting will be held at the St. James Hotel, 950 24th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Persons desiring additional information on the session should contact Thomas L. Johns, Director, Policy Analysis Staff, Office of Vocational and Adult Education, 400 Maryland Avenue, SW., Washington, DC 20202-7120. Telephone: (202) 732-2237; TDD (202) 732-2235.

SUPPLEMENTARY INFORMATION:

Background

Section 504 of the Perkins Amendments contains procedural requirements for developing and issuing regulations. In particular, section 504(b) directs the Secretary to "prepare draft regulations and submit regulations on at least two key issues to a negotiated rulemaking process." The Secretary is to follow the guidance provided by the Administrative Conference of the United States in Recommendations 82-4 and 85-5, "Procedures for Negotiating Proposed Regulations" (1 CFR 305.83-4 and 85-5). Section 504(a)(1) also requires that, prior to publishing proposed regulations, the Secretary convene regional meetings "to obtain public involvement in the development of proposed regulations" and that these meetings include "representatives of groups involved in vocational education programs under the Act, such as Federal, State, tribal and local administrators, parents, teachers, members of local boards of education and special populations." The statute requires that participants in the negotiated rulemaking process be selected from among those attending the regional meetings. As announced in the **Federal Register** on October 12, 1990 (55 FR 41642), the Department conducted regional meetings in Philadelphia, Pennsylvania; Atlanta, Georgia; San Francisco, California; and Kansas City, Missouri between October 30-November 15, 1990.

Issues Selected for Negotiations

The issue areas listed below have been selected for the negotiated rulemaking process. These issues areas include specific issues discussed at the regional meetings that generated considerable discussion and interest and the Department judges to be of significant interest and importance as follows:

1. Evaluations under Standards and Measures.
2. Services and Activities for Special Populations.
3. Requirements for the Use of Funds.

Participants

The following is a list of the participants who have been invited by the Department to participate in the negotiated rulemaking process. The participants are representatives, as appropriate, of those groups specified in the statute (section 504(b)) and of ten geographical regions across the country:

Response:

Federal Administrator:
- Betsy Brand, Assistant Secretary for Vocational and Adult Education

State Administrators:
- Trudy Anderson, Idaho State Director for Vocational Education
- Marguerite Beardsley, Acting Director, Office of Community Colleges, New Jersey Department of Higher Education
- Douglas Call, Vice Chancellor for Community Colleges, West Virginia
- Phyllis Herriage, Iowa State Director for Vocational Education

Local Administrators:
- Kay Clayton, Professor and Chair, Home Economics Department, Texas A & I University
- Dr. Norval L. Wellsfry, Dean, Instruction/Occupational Ed., Sacramento City College, California
- Dr. Roland J. Werner, Asst. Dir., Special Education, St. Louis Public Schools, Missouri

Representative for State Councils on Vocational Education:
- Larry Barnhardt, Executive Director, North Dakota Council on Vocational Education

Parent:
- Pam Wittke, Department Chairperson for General Education and Development Studies, Augusta Technical Institute, Georgia

Teacher:
- Charles House, Coordinator, Coordinated Vocational Academic Education, Telfair County Schools, Georgia

Local Board Member:
- Elaine Sweeney, Vice Chair, School Committee, Minuteman Regional Voc-Tech, Massachusetts

Special Populations Representatives:
- Sharon Full, State Consultant, Division of Voc-Tech Education, Illinois Dept. of Education
- Leonard Rieser, Attorney, Education Law Center, Pennsylvania

Dated: December 7, 1990.

Betsy Brand,

Assistant Secretary, Vocational and Adult Education.

[FR Doc. 90-29159 Filed 12-12-90; 8:45 am]

BILLING CODE 4000-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-599, RM-7523]

Radio Broadcasting Services: Fort Bragg, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Susan I. Waters, permittee and assignor of Station KZPB(FM), Channel 244A, Fort Bragg, California, and The Henry Radio Company, assignee, seeking the substitution of Channel 244B for Channel 244A and modification of the construction permit for Station KZPB(FM) accordingly. Coordinates for this proposal are 39-27-53 and 123-45-27.

DATES: Comments must be filed on or before January 31, 1991, and reply comments on or before February 15, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In additional to filing comments with the FCC, interested parties should serve the petitioners' counsel, as follows: Richard J. Hayes, Jr., Esq. 1359 Black Meadow Road, Spotsylvania, VA 22553.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-599 adopted November 15, 1990 and released December 10, 1990.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-29256 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 55, No. 240
Thursday, December 13, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 7, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W, Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Revision

- Agriculture Stabilization and Conservation Service, 7 CFR part 1475, Emergency Feed Program, CCC–642, 652, 640, 651, 658, 651B, 657, 659, ASCS–648, CCC–653A, 651, Appendix, CCC–640A, On occasion, Farms; 383,000 responses; 82,832 hours, Clarence Domire, (202) 447–7673.

New Collection

- Food and Nutrition Service, WIC Program Regulations—Reporting and Recordkeeping Burden—Addendum 1 Recordkeeping; Annually; Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 1,290 responses; 91,122 hours, Michael T. Buckley, (703) 756–3730.
- Food Safety and Inspection Service, Additional Methods for Destroying Trichinae in Dry-Cured Ham and Sausage, Recordkeeping, State or local governments; Businesses or other for-profit; Small businesses or organizations; 9 responses; 144 hours, Roy Purdie, Jr. (202) 447–5372.

New Collection

- Food and Nutrition Service, 7 CFR part 210—National School Lunch Program—Addendum 1, Recordkeeping; Monthly; Quarterly; Annually; Biennially, State or local governments; Federal agencies or employees; Non-profit institutions; 375 responses; 8129 hours, Marian L. Stroud, (703) 756–3598.

Reinstatement

- Forest Service, Collection and Analysis of Timber Purchasers Costs and Sales Data Annually, Businesses or other for-profit; Small businesses or organizations 104 responses; 392 hours; Douglas Mac Cleery, (202) 475–3753.

Larry K. Roberson,
Acting Departmental Clearance Officer.

[FR Doc. 90–29144 Filed 12–12–90; 8:45 am]
BILLING CODE 3410–01–M

Packers and Stockyards Administration

Amendment to Certification of Central Filing System—Louisiana

The Statewide central filing system of Louisiana has been previously certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Bob Odom, Commissioner of Agriculture, for specified farm products produced in that State (51 FR 47036, December 30, 1986; 53 FR 15722, May 3, 1988; 53 FR 24755, June 30, 1988; and 54 FR 10031, March 9, 1989).

The Certification is hereby amended on the basis of information submitted by W. Fox McKeithen, Secretary of State, for all farm products produced in that State.

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C.; 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: December 7, 1990.

Calvin W. Wakins,
Acting Administrator, Packers and Stockyards Administration.

[FR Doc. 90–29145 Filed 12–12–90; 8:45 am]
BILLING CODE 3410–KD–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 48–90]

Foreign-Trade Zone 43—Battle Creek, MI; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Battle Creek, Michigan, grantee of FTZ 43, requesting authority to expand its zone to include a site in Texas Township, Kalamazoo County, Michigan, adjacent to the Battle Creek Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 3, 1990.

FTZ 43 was approved on October 19, 1978 (Board Order 138, 43 FR 50233, 10/27/78). It currently involves two warehouses within the Fort Custer Industrial Park. An application is pending to expand the zone at the Fort Custer park (FTZ Docket 8–89, 54 FR 19581, 5/8/89).

The grantee now requests authority to further expand FTZ 43 to include a site (23 acres) located in Texas Township, at 6677 Beatrice Drive near the intersection of 9th St. and Interstate 94, some 25 miles west of Battle Creek. The site involves a warehouse facility owned and operated by TLC Warehousing Services, Inc. No manufacturing authority is being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of John J. DaPonte,

Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; William L. Morandini, District Director, U.S. Customs Service, North Central Region, Patrick V. McNamara Bldg., 477 Michigan Avenue, Detroit, Michigan 48226-2568; and Colonel John D. Glass, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, Michigan 48231-1037.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before January 23, 1990.

A copy of the application is available for public inspection at each of the followng locations:

Port Director's Office, U.S. Customs Service, 4950 West Dickman Road, Battle Creek, Michigan 49106.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue. NW. room 4213, Washington, DC 20230.

Dated: December 5, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-29235 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-412-806]

Initiation of Antidumping Duty Investigation: Certain Gene Amplification Thermal Cyclers and Subassemblies Thereof From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the "Department"), we are initiating an antidumping duty investigation to determine whether imports of certain gene amplification thermal cyclers and subassemblies thereof (GATCs) from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value.

EFFECTIVE DATE: December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5288.

SUPPLEMENTARY INFORMATION:

The Petition

On November 14, 1990, we received a petition filed in proper form by M.J. Research, Inc. In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioner alleges that imports of GATCs from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from the United Kingdom of GATCs.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner based its estimates of United States price on price quotes from an unrelated distributor to end users. Petitioner made deductions for estimated distributor markup, movement charges, and U.S. duty.

Petitioner based its estimates of foreign market value on a price quote to an unrelated distributor. Petitioner made adjustments for differences in merchandise, packing, and credit. We have recalculated the credit adjustment using the Department's standard methodology.

Based on a comparison of U.S. price and foreign market value, petitioner alleges dumping margins ranging from 50.36 to 59.81 percent. Based on our recalculations, these margins range from 46.21 to 55.15 percent.

Petitioner also alleges that "critical circumstances" exist, within the meaning of section 733(e) of the Act, with respect to imports of GATCs from the United Kingdom.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition and found that is complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of GATCs from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 23, 1991.

Scope of Investigation

The products covered by this investigation are certain gene amplification thermal cyclers, consisting of Peltier-effect *in vitro* GATCs, whether assembled or unassembled, and the subassemblies thereof specified below. GATCs are microprocessor-based reaction controllers that regulate temperatures of biologic reagents through a programmed and highly controlled thermal regime. GATCs incorporate a metal sample block, one or more thermoelectric modules, one or more electronic thermal sensors, a heat exchanger, power supply circuitry, microprocessor-based logic circuitry, software, and a housing or enclosure. GATCs are used in a variety of biotechnology applications, such as *in vitro* gene amplification, and sequencing and radionucleodide labeling reactions. Peltier-effect machines use one or more thermoelectric modules for cooling the biologic samples, and the thermoelectric modules and/or electric resistive heaters for heating the biologic samples. Excluded from this investigation are vapor compression thermal cyclers, which use a reversed Rankine cycle apparatus, and heat-only thermal cyclers.

The following subassemblies are included in the scope of the investigation when they are manufactured according to specifications and operational requirements for use in a GATC as defined in the preceding paragraph: (a) The sample block/thermoelectric

sensor/heat exchanger subassembly, which consists of the sample block, one or more thermoelectric modules, one or more electronic thermal sensors, and a heat exchanger, and which can include an electric resistive heater; (b) the housing or enclosure, whether finished or unfinished, or the GATC; (c) the membrane keypad used to program and control a GATC; and (d) the software to operate the GATC.

GATCs are currently classifiable under the Harmonized Tariff Schedule (HTS) subheading 8419.89.5075. GATC subassemblies are currently classifiable under HTS subheading 8419.90.9060. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

Notification of International Trade Commission

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-proprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC determine by December 31, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of GATCs from the United Kingdom. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to the statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: December 4, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-29236 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-054]

Tapered Roller Bearings Four Inches or Less in Outside Diameter and Certain Components Thereof From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner and the respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on tapered roller bearings four inches or less in outside diameter and certain components thereof from Japan. The review covers three manufacturers/exporters of the subject merchandise to the United States during the period August 1, 1987 through July 31, 1988. The review indicates the existence of dumping margins for the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the difference between the United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATES: December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Chip Hayes, Laurel LaCivita or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1988, the Department of Commerce (the Department) published a notice of "Opportunity to Request an Administrative Review" (53 FR 29755). The petitioner in this case, the Timken Company, and one respondent requested an annual review. We initiated the review on September 27, 1988 (53 FR 37617) covering the period August 1, 1987 through July 31, 1988. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act). The final results of the last administrative review in this case were published in the **Federal Register** on September 20, 1990 (55 FR 38720).

Scope of the Review

Imports covered by the review are sales or entries of tapered roller bearings (TRBs) four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. During the review period such merchandise was classifiable under items 680.3932, 680.3934, and 680.3938 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) items 8482.20.00 and 8482.99.30. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers three manufacturers/exporters of TRBs, Koyo Seiko, K.K (Koyo), Nachi-Fujikoshi, and Nippon Seiko, K.K (NSK), during the period August 1, 1987 through July 31, 1988.

United States Price

The Department used exporter's sales price (ESP), as defined in section 772 of the Tariff Act, to calculate United States price. ESP was based on the packed, delivered price to unrelated purchasers in the United States. We made adjustments, were applicable, for foreign inland freight, ocean freight, marine insurance, export inspection fees, brokerage and handling, U.S. inland freight, U.S. duty, commissions to unrelated parties, U.S. credit, rebates and discounts, packing expenses incurred in the United States and indirect selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

The Department used the home market price, as defined in section 773 of the Tariff Act, to calculate foreign market value (FMV). If sufficient quantities of such or similar merchandise were not sold in the home market to allow a comparison between the U.S. price and foreign market value, we used constructed value as the basis for FMV.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV. In consideration of the significant volume of home market sales involved in this review, we compared the monthly weighted-average home market price for each product with its annual weighted-average price. Because the annual weighted-average price of each model did not vary greatly from its monthly weighted-average price, we consider the annual weighted-average price to be representative of the transactions under consideration. Therefore, we calculated the FMV for each model on an annual weighted-

average basis, in accordance with section 777A(a) of the Tariff Act.

When we used home market sales as the basis of comparison, we based FMV on the packed, F.O.B., ex-factory or delivered price to unrelated purchasers in the home market. We made adjustments, where applicable, for inland, freight, credit, discounts, rebates and differences in physical characteristics. We adjusted FMV for indirect selling expenses in the home market to offset indirect selling expenses in the U.S. We limited selling expenses incurred on home market sales by the amount of the indirect selling expenses incurred in the U.S. We added packing expenses incurred in Japan for U.S. sales to FMV.

Petitioner alleged that both NSK and Koyo sold merchandise covered by the finding in the home market at prices below the cost of production. Therefore, in accordance with section 773(b) of the Tariff Act, we used constructed value as the basis for FMV when we determined that substantial quantities of sales below cost were made in the home market over an extended period of time in the normal course of trade.

We calculated constructed value in accordance with section 773(e) of the Tariff Act. We included that cost of materials, labor, and factory overhead in our calculations. Koyo's actual selling, general and administrative expenses (SG&A) and profit were less than the statutory minimums of ten and eight percent, respectively, of the cost of manufacture. Therefore, we used the statutory minimums in our calculation of constructed value. NSK's actual SG&A was greater than the statutory minimum of ten percent. Therefore, we used actual SG&A in our calculation of constructed value. NSK's actual profit was less than the statutory minimum of eight percent. Therefore, we used the statutory minimum of eight percent profit in our calculation of constructed value.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period August 1, 1987 to July 31, 1988:

Manufacturer/exporter	Margin (percent)
Koyo Seiko, K.K	54.01
Nippon Seiko, K.K	20.34
Nachi-Fujikoshi	18.07*

*No shipments during the period; margin from last review in which there were shipments.

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties, based on the above margins, shall be required on shipments of TRBs from Japan. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for these firms.

For any future entries of this merchandise from an exporter not covered in this or in prior reviews, whose first shipments of the merchandise occurred after July 31, 1988, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 54.01 percent shall be required. These deposit requirements are effective for all shipments of the covered merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 4, 1990.

Majorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-29237 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Determination: Certain Continuous Cast Steel Slabs

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain continuous cast steel slabs.

SHORT-SUPPLY REVIEW NUMBER: 32.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a request for a short-supply allowance of 40,000 net tons of certain continuous cast steel slabs for the first quarter of 1991 under Article 8 of the U.S.-Brazil steel arrangement and paragraph 8 of the U.S.-Mexico steel arrangement.

EFFECTIVE DATE: December 7, 1990.

FOR FURTHER INFORMATION CONTACT: Kathy McNamara or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377-1390 or (202) 377-0159.

SUPPLEMENTARY INFORMATION: On November 9, 1990, the Secretary received an adequate short-supply petition from Oregon Steel Mills ("OSM") requesting a short-supply allowance for 55,000 net tons per quarter of certain continuous cast steel slabs for each quarter of 1991 under Article 8 of the Arrangement Between the Government of Brazil and the Government of the United States Concerning Trade in Certain Steel Products, and Paragraph 8 of the Arrangement Between the Government of Mexico and the Government of the United States Concerning Trade in Certain Steel Products. OSM alleges that it will experience a supply shortfall for this product in 1991 because it has recently obtained several 1991 contracts for large pipeline projects, which will more than double its slab requirements from 1990. OSM states that it has limitations on the quantity of this material it can supply from its Portland, Oregon facility, and that domestic producers either have no available capacity or are unable to meet OSM's specifications. OSM also states that it will be able to purchase some quantity of slabs under regular export licenses, but must obtain this tonnage under a short-supply allowance.

The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and Section 357.102 of the Department of

Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

The requested material meets the following specifications:

Dimensions:

Gauge: 200 mm—230 mm
Width: 1700 mm—1800 mm
Length: 7300 mm—7620 mm

Tolerances:

Gauge: ±4mm
Width: ±10mm
Length: ±50mm
Camber: 0.67% max.
Crossbow: 10mm max.
Squareness: 90 ± 3

Chemical Composition:

C—0.07% to 0.11%
MN—1.35% to 1.55%
P—0.015% max.
S—0.007% max.*
Si—0.15% to 0.30%
Cb—0.025 to 0.050%
V—0.020% max.
Ti—0.005% max.
A1—0.020% to 0.050%
Cu—0.25% max.
Ni—0.15% max.
Cr—0.15% max.
Mo—0.05% max.
Sn—0.008% max.
Ca—**
N—0.08% max.
A1/N ratio >4.0

*Prefer 0.002% maximum sulfur

**Liquid steel to be calcium treated for inclusion shape control.

Action

On November 9, 1990 the Secretary established an official record on this short-supply request (Case Number 32) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. A notice of this short-supply review and request for comments was published in the **Federal Register** on November 21, 1990, and all comments from interested parties concerning the review were due November 28, 1990. Replies to those comments were to be filed no later than December 3, 1990. On November 28, 1990 we received comments from Bethlehem Steel Corporation (Bethlehem) in response to the **Federal Register** notice, and on December 3, 1990 we received reply comments from OSM.

Questionnaires

Questionnaires were sent to 14 companies, as follows: Armco Inc. (Armco), Bethlehem, Citisteel USA, Inc. (Citisteel), Geneva Steel Company (Geneva), Gulf States Steel (Gulf States), Inland Steel Industries (Inland), LTV Steel Company (LTV), Lukens Steel Company (Lukens), McLouth Steel (McLouth), National Steel Corporation (National), Rouge Steel Company (Rouge), Sharon Steel Company (Sharon), USX Corporation (USX) and Wheeling-Pittsburgh Corporation (Wheeling-Pittsburgh). Adequate questionnaire responses were received from 10 of the 14 potential suppliers. Seven of these companies (Citisteel, Gulf States, Lukens, Inland, McLouth, Rouge, and Sharon) were not able to produce slabs meeting the specifications requested. National indicated that it could supply 5,000 net tons per month of slabs which differ slightly from OSM's specifications starting in January 1991. Bethlehem indicated it could supply at least 10,000 net tons per quarter of slabs meeting OSM's exact specifications starting in the second quarter of 1991. LTV indicated that, due to the uncertain market conditions predicted for 1991, it is possible that LTV would be in a position to supply the requested slabs in the second through fourth quarters. On November 21, 1990, we contacted OSM to convey this information and to request further clarification concerning domestic and foreign suppliers.

Analysis

Questionnaire responses indicate that the slabs subject to this request are produced by a number of domestic producers. Therefore, determining whether short supply will exist throughout 1991 is difficult at this time because our determination must be based on domestic market conditions which may change dramatically throughout the year. For example, Bethlehem has indicated that it could supply at least 10,000 net tons per quarter during the second through fourth quarters of 1991, and LTV has indicated that, depending on market conditions, it also may be in a position to supply OSM with slabs during April through December. In addition, there is some uncertainty on whether certain pipeline projects that are the basis of OSM's short-supply request may be delayed. Therefore, due to the current volatile nature of the semi-finished steel and large diameter pipe markets, the Secretary must make a determination on this request on a quarter-by-quarter basis, and consider only OSM's needs for the first quarter at this time. Should OSM continue to experience a supply shortfall, it may request that the Secretary consider its second quarter needs in early 1991.

With regard to OSM's first quarter needs, the only producer offering to supply a quantity of these slabs is National. National has offered to supply 5,000 net tons per month of slabs that meet OSM's specifications with the exceptions of thickness (National can provide slabs 241 mm in thickness; OSM has specified slabs in the 200–230 mm range) and possible variations in internal quality specifications.

Although OSM requests slabs in the 200–230 mm range, they have in the past year used slabs ranging up to 260 mm in thickness. OSM states that it is requesting slabs in the 200–230 mm range because slabs in the 240–260 mm range require additional passes during rolling to reduce the thickness. OSM contends this can cause severe flatness problems, which result in a higher rejection rate. However, OSM has provided no information on the record to support this allegation. OSM subsequently states that using slabs in the 200–230 mm range allows its plate mill to attain a higher production rate and far better slab to plate yields. Therefore, OSM's thickness specification is not based upon physical limitations of the mill, but rather it represents the desire for a product that optimizes efficiency of its production facility. OSM has not provided any information to substantiate that National's slabs would not be usable in OSM's facilities. In fact, in its December 3, 1990 response, OSM indicates that it would be willing to purchase the slabs offered by National. Therefore, National's offer of 5,000 net tons per month during the first quarter of 1991 represents a legitimate supply of the product.

OSM claims, however, that the tonnage offered by National should not be counted against OSM's shortfall. OSM states that in estimating its shortfall, it made allowances for some tonnage to be supplied by unnamed domestic producers and/or foreign producers under regular export licenses. OSM contends that the tonnage offered by National has effectively been included in OSM's estimate of its 1991 supplies.

However, the Secretary has no basis to regard National's offer of 5,000 net tons per month as other than a new source of supply. Accordingly, the Secretary is deducting 15,000 net tons (5,000 net tons per month) from OSM's expected shortfall of 55,000 net tons in the first quarter, leaving a net shortfall of 40,000 net tons for the first quarter of 1991.

Conclusion

Because OSM requires 55,000 net tons of continuous cast material to meet its production needs during the first quarter of 1991, and because one domestic producer has offered to supply up to 15,000 net tons of the needed material, the Secretary determines that short

supply exists for 40,000 net tons of continuous cast steel slabs meeting Rouge's specifications. Pursuant to section 4(b)(4)(a) of the Act, and section 357.102 of Commerce's Short-Supply Procedures, the Secretary grants OSM's request for a short-supply allowance of 40,000 net tons of certain continuous cast steel slabs for the fourth quarter of 1990 and the first and second quarters of 1991. Should OSM require additional material during the second quarter of 1991, it should submit a new request in early 1991.

Dated: December 7, 1990.

Majorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-29238 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Endangered Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Withdrawal of correction to permit application (P470) and issuance of scientific research permit No. 719.

SUMMARY: On Wednesday, October 24, 1990, notice was published in the Federal Register (55 FR 42869-42870) that an application (P470) had been filed by Dr. Walter H. Munk, Scripps Institution of Oceanography (A-025), Institute of Geophysics and Planetary Physics, La Jolla, California 92093, to take endangered marine mammals. Type of take involves acoustic harassment in the course of an experiment to assess potential impacts on marine mammals of acoustic signals designed to detect global ocean warming. Vocalization rates will be measured as well as respiration and direction of swimming to determine whether the behavior of the animals changes in response to the acoustic signal. On Tuesday, November 20, 1990, a notice of correction to the application was published in the Federal Register (55 FR 48267) adding two additional species to the list of animals to be harassed.

Notice is given that the Correction (55 FR 48267) to the Application for Scientific Research Permit, Walter H. Munk, Scripps Institution of Oceanography (P470) is hereby withdrawn.

Notice is hereby given that on December 7, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), the National Marine Fisheries Service Regulations Governing Endangered Fish and Wildlife permits (50 CFR parts 217-222), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), issued a Permit for the above activities subject to the Special Conditions set forth therein.

The Environmental Assessment is available from the following office: Virginia Tippie, Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA, 1825 Connecticut Avenue, NW., room 611, Washington, DC 20235.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930;

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731-7415; and

Administrator, Western Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, room 106, Honolulu, Hawaii 96822-2396.

Dated: December 10, 1990.

David S. Crestin,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90-29233 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License; Thomas A. Permar

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application SN 7/351,347, Monoclonal Antibodies Which Discriminate Between Strains of Citrus Tristeza Virus, to Thomas A. Permar, having a place of business at Altamonte Springs, Florida. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to murine hybridoma cell lines and monoclonal antibodies produced therefrom which may be used to detect severe forms of the citrus tristeza virus in citrus plant tissue by immunological assay.

The availability of the invention for licensing was published in the Federal Register Vol. 54, No. 142, p. 31067, July 26, 1989. A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487-4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Douglas J. Campion, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Property filed competing applications received by NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90-29183 Filed 12-12-90; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange: Proposed Amendments Relating the Minimum Purity Standard for the Platinum and Palladium Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New York Mercantile Exchange (NYMEX or Exchange) has submitted proposed amendments to its platinum and palladium futures contracts that will upgrade, to 99.95% from 99.90%, the minimum purity standard for deliverable platinum and palladium. The amendments will apply only to newly listed futures contract months under an implementation plan that provides for the phase-out of delivery of 99.90% pure metal over a period of about five years. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before January 14, 1991.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed changes to the purity standard for the NYMEX platinum and palladium futures contracts.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254-7303.

SUPPLEMENTARY INFORMATION: The platinum and palladium futures contracts currently provide that the minimum purity for deliverable platinum and palladium is 99.90% pure metal.[1] The proposal would upgrade the minimum purity standard to 99.95% pure metal. In justification of the proposal, the NYMEX stated that:

> The world platinum and palladium physical markets require a minimum purity standard of 99.95%. There are a few industrial applications where 99.9% metal is acceptable, for example, jewelry; however, the vast majority of metal must be 99.95% pure in order to be useful to industrial end-users of platinum and palladium. In addition, long-term contracts with South African and Russian producers and the majority of each market trading in New York, London, Zurich and Tokyo is for 99.95% metal.
>
> * * * By introducing 99.95% purity, it is the Exchange's intention to better serve the world PGM [platinum group metal] market by: Bringing the NYMEX Platinum and Palladium Futures contracts into line with international commercial standards; improving the liquidity of deliverable supplies; enhancing the integrity of the NYMEX PGM contracts by improving the integration of the NYMEX and cash markets; and potentially improving volume and liquidity by attracting more commercial and international participation (specifically from Europe and Japan) to the Exchange.
>
> 99.95% purity is the international commercial standard in the platinum and palladium cash markets. The London Platinum and Palladium Market, a group of eight market makers responsible for the London morning and afternoon Fixings, trades metal of 99.95% purity. In addition, most refiners and fabricators maintain pool accounts of 99.95% purity.
>
> Bringing the contracts into line with the standards of the cash market * * * is likely to result in more metal being potentially deliverable against the contracts at par. While it is true that prior to the upgrade 99.95% pure metal *could* be delivered against contracts (the specifications only require 99.9% *minimum*), it was unlikely that any significant amount of metal of the higher purity would be delivered since the seller could be giving away value as the Exchange price was only capturing 99.9% purity.
>
> With a 99.95% contract, the Exchange stands to facilitate the delivery of a greater proportion of world supplies. By aligning the contract with the larger segment of the cash market—that comprising 99.95% purity—deliverable supplies should increase. This gain would exceed the marginal losses of supply of 99.9% metal that will no longer be deliverable * * *.

Regarding implementation, the Exchange stated that it proposes to introduce the 99.95% purity specification and phase out the deliverability of the lower purity metal for both contracts beginning with the first contract month to be listed after Commission approval, as described below. Thus, all existing contract months with open interest at the time of Commission approval will be unaffected by the amendments. In that regard, the NYMEX currently lists platinum and palladium futures out as much as 15 months. Details of the NYMEX's proposed implementation procedure as set forth in the amended rules for both contracts are as follows:

> (A) Upon Commission approval, the NYMEX Board of Directors will establish platinum and palladium delivery months no earlier than sixteen months following the date of approval of the rule amendments. Beginning with that specified delivery month and from then on, only 99.95% pure metal may be delivered *at par* on the contracts.
>
> (B) For all contract months expiring prior to the contract month established pursuant to (A) above, 99.5% and 99.9% platinum and 99.8% and 99.9% palladium would continue to be deliverable with the existing discounts for the lower purity of each metal as noted in footnote 1 above.
>
> (C) For 36 months following the expiration of the contract month established pursuant to (A) above, platinum of 99.5% and 99.9% purity and palladium of 99.8% and 99.9% purity would continue to be deliverable at the discounts set forth in (D) and (E) below. After this 36-month period, only platinum and palladium of minimum 99.95% purity metal may be delivered.
>
> (D) Platinum and palladium assayed and certified prior to the expiration of the contract month established pursuant to (A) above as 99.9% purity may be delivered during the 36-month phase-out period set forth in (C) above at a discount of $9.00 per ounce for platinum and $7.50 per ounce for palldium.
>
> (E) Platinum assayed and certified prior to October 29, 1982, as 99.5% purity may be delivered during the time period set forth in (C) at a discount of $16.50 per ounce. Palladium assayed and certified prior to March 26, 1985, as 99.8% purity may be delivered during this time period at a discount of $13.50 per ounce.

As noted, during the phase-out period, the Exchange proposes to allow metal of 99.90% purity—the current minimum purity metal—to be delivered at a discount of $9.00 for platinum and $7.50 for palladium. According to the NYMEX, "* * * these discount rates reflect the actual cost to upgrade the metal [to 99.95% pure platinum or palladium], and, at the same time, will provide an incentive for market participants to remove this metal from NYMEX depositories and upgrade to the highest deliverable standard." Similarly, according to the Exchange, "* * * metal of 99.5% and 99.8% metal will continue to be deliverable against the 99.95% contract at discounts of $16.50 for platinum (the current rate of $7.50 for the 99.5% to 99.9% differential plus the additional proposed discount of $9.00) and $13.50 for palladium (the current rate of $6.00 for the 99.8% to 99.9% differentials plus the additional proposed discount of $7.50)." Under the proposed implementation plan, the Exchange noted that market participants will have three years from the date that delivery against the 99.95% contract begins—approximately 5 years from now—to make arrangements for

---

[1] The platinum and palladium futures contracts also provide for the delivery of lower purity metal at a discount if certain special conditions are met. Specifically, lower purity (99.5%) platinum is deliverable at a $7.50 per ounce discount if such product was assayed and certified as deliverable prior to October 29, 1982. Lower purity (99.8%) palladium is deliverable at a $6.00 per ounce discount if such product was assayed and certified as deliverable prior to March 26, 1985. These dates represent the last dates such lower purity metal could have been certified for delivery on the contracts under implementation procedures approved in the early 1980s designed to phase out the deliverability of such lower purity metal by adopting a higher, 99.90%, minimum purity standard—the current standard for both contracts.

disposing of or upgrading the lower purity metal currently deliverable on the contracts. The Exchange stated that this is "* * * ample time to ensure a smooth transition."

The Division is requesting comment on the consistency of the proposed higher minimum purity standard with cash market production practices. Also, the Division requests comment on the NYMEX's proposed implementation plan, including the appropriateness of the proposed furtures discounts for the delivery of currently deliverable lower purity metal during the transition period.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, at the above address. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the same address or by telephone at (202) 254–6314.

The materials submitted by the NYMEX in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, at the above address by the specified date.

Issued in Washington, DC on December 7, 1990.

Gerald Gay,

Director.

[FR Doc. 90–29151 Filed 12–12–90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Technology Surprise Task Force will meet January 9, 1991 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss the possibility of unexpected technological breakthroughs that vastly change warfighting capabilities. The entire agenda of the meeting will consist of discussions of key issues regarding the potential for unexpected technology breakthroughs that could have an acute impact on naval and other military forces. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

FOR FURTHER INFORMATION CONCERNING THIS MEETING, CONTACT: Judith A. Holden, Executive Secretary to the Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302–0268, Phone (703) 756–1205.

Dated: December 4, 1990.

G.B. Roberts,

LtCol, USMC, Federal Register Liaison Officer.

[FR Doc. 90–29141 Filed 12–12–90; 8:45 am]

BILLING CODE 3810-AE-M

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Shallow Water Antisubmarine Warfare Task Force will meet January 10–11, 1991 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to evaluate U.S. Navy shallow water antisubmarine warfare long term strategies. The entire agenda for the meeting will consist of discussions of key issues related to shallow water antisubmarine warfare and related intelligence. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and, are in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

FOR FURTHER INFORMATION CONCERNING THIS MEETING, CONTACT: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756–1205.

Dated: December 4, 1990.

G.B. Roberts,

LtCol, USMC, Register Liaison Officer.

[FR Doc. 90–94142 Filed 12–12–90; 8:45 am]

BILLING CODE 3810-AE-M

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel U.S. Navy-Soviet Navy Exchanges Task Force will meet January 8, 1991 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss of key issues regarding U.S. Navy-Soviet Exchanges. The entire agenda for the meeting will consist of discussions on how to implement a long-range, comprehensive, follow-on program. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302–0268, Phone (703) 756–1205.

Dated: December 4, 1990.

G.B. Roberts,

LtCOL, USMC, Federal Register Liaison Officer.

[FR Doc. 90–29143 Filed 12–12–90; 8:45 am]

BILLING CODE 3810-AE-M

DEFENSE LOGISTICS AGENCY

Cooperative Agreements Revised Procedures

AGENCY: Defense Logistics Agency, DoD.

ACTION: Cooperative Agreements; Proposed Revised Procedures.

SUMMARY: This proposed revised procedure implements chapter 142, title 10, United States Code, as amended, which authorizes the Secretary of

Defense, acting through the Director, Defense Logistics Agency (DLA), to enter into cost sharing cooperative agreements to support procurement technical assistance programs established by state and local governments, private nonprofit organizations, Tribal organizations, and Indian-owned economic enterprises. Subpart III of this issuance establishes the administrative procedures proposed to be implemented by DLA to enter into such agreements for this purpose.

DATES: Comments will be accepted until January 14, 1991. Proposed effective date: January 21, 1991.

FOR FURTHER INFORMATION CONTACT: Sim Mitchell, Program Manager, Office of Small and Disadvantaged Business Utilization (DLA-UM), Defense Logistics Agency, Alexandria, VA 22304-6100, Telephone (703) 274-647).

I. Background Information

The Department of Defense (DoD) has developed programs designed to expand its industrial base and increase competition for its requirements for goods and services, thereby reducing the cost of maintaining a strong national security. Its efforts to increase competition in the private sector have been supplemented by many state and local governments and other entities where the interest in improving the business climate and economic development in their communities is compatible with these DoD objectives. To assist in furthering this mutual interest, a Cooperative Agreement Program was established in which DoD shares the cost of supporting existing procurement technical assistance (PTA) programs being conducted by state and local governments, private nonprofit entities, Tribal organizations, and Indian-owned Economic Enterprises to encourage the establishment of similar programs in their communities or on Indian reservations.

The Cooperative Agreement Program was established by the Fiscal Year (FY) 1985 DoD Authorization Act, Public Law 98-525. It amended title 10, United States Code, by adding chapter 142 and authorizing the Secretary of Defense, acting through the Director, Defense Logistics Agency (DLA), to enter into cost sharing cooperative agreements with state and local governments, other nonprofit entities, Tribal organizations and Indian economic enterprises (hereafter referred to as eligible entities as defined in section 3 of this procedure) to establish and conduct PTA programs during FY 85. The Cooperative Agreement Program continues under title 10, United States Code, as amended.

The U.S. Congress authorized a total of $9 million to support the program during FY 91. Of this total, $600,000 is available for Indian programs only.

In cases where the area being or to be serviced by the eligible entity encompasses more than one Defense Contract Management District's (DCMD) area of geographic cognizance, eligible entities will submit their proposals to the DCMD having cognizance over the preponderant part of the area being or to be serviced. Only one proposal will be accepted from a single eligible entity. The names, addresses and state or geographic areas under the cognizance of the DCMD Associate Directors of Small Business are at Encl 1.

Additional limitations placed on these funds are:

(a) DoD cost sharing shall not exceed 50% of the net cost of a single program, excluding any Federal funds and other income. In no event shall the DoD share of the net program cost (NPC) exceed $150,000 for programs providing less than statewide coverage and $300,000 for programs providing statewide coverage. Funding limitations for the Indian Program will be announced in each year's solicitation.

(b) Eligible entities cannot subcontract more than 10% of their total program costs for private profit and/or nonprofit consulting services to support the program.

(c) These limitations may be modified by the Headquarters (HQ) DLA Policy Committee as necessary to comply with legislative or other requirements.

DoD presently provides PTA to business firms through its network of Small Business Specialists located in industrial centers around the country. To the extent resources are available, the DCMD Associate Directors of Small Business located in these industrial centers, will be available to provide: (1) Eligible entities such assistance as necessary to facilitate full understanding of the solicitation requirements; (2) general guidance in preparing proposals; and (3) orientation and training assistance to PTA cooperative agreement recipients' staff during program implementation.

PTA given to clients for marketing their goods and services to Federal agencies other than DoD and/or state and local governments will not be considered when evaluating proposals. However, eligible entities are encouraged to consider supplementing their DoD program to include these Federal marketing opportunities for business firms located in the area being or to be serviced.

The purpose of the proposed revised procedure is to make available to all eligible entities the prerequisites, policies and procedures which will govern the award of cooperative agreements by DLA. Also, this procedure establishes the guidelines which will govern the administration of cooperative agreements.

Although this procedure will affect all eligible entities desiring to enter into a DLA awarded cooperative agreement, DLA has determined that this procedure does not involve a substantial issue of fact or law, and that it is unlikely to have a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. This determination is based on the fact that the proposed cooperative agreement procedure implements policies already published by the Office of Management and Budget pursuant to chapter 63, title 31, United States Code, Using Procurement Contracts and Grant and Cooperative Agreements. In addition, DLA cooperative agreements will be entered into pursuant to the authorities and restrictions contained in the annual DoD Authorization and Appropriation Acts. Therefore, public hearings were not conducted.

II. Other Information

The language contained in the current cooperative agreement procedure limited the period of coverage to the FY 90 Program in that it addressed the FY 90 Authorization Act requirements in specific terms, including the exact dollar amounts of funding applicable to the Program. The proposed revision to the procedure will provide general guidance for cooperative agreements entered into by the DLA and will become a permanent document for the duration of the FY 91 program.

Comments are invited on the procedure. Comments should be submitted to the Defense Logistics Agency, ATTN: DLA-UM, Cameron Station, Alexandria, VA 22304-6100. Comments received after January 14, 1991 may not be considered in formulating revisions to the Procedure.

Cooperative Agreement Procedure

III. Proposed Revision to DLA Procedure—Cooperative Agreements

3-1 Policy

A. Proposals for cooperative agreements are obtained through the issuance of a DLA Solicitation for Cooperative Agreement Proposals, hereafter referred to as a SCAP. The

contents of this procedure shall be incorporated, in whole or in part, into the solicitation to establish administrative requirements to execute and administer DLA awarded cooperative agreements. The SCAP may include additional administrative requirements required by legislation that are not included in this procedure.

B. Cooperative agreements will be awarded on a competitive basis as a result of the SCAP. It is DLA's policy to encourage fair and open competition when awarding cooperative agreements. However, DoD through DLA, reserves the right to make or deny an award to an applicant if competition for DoD goods and services would be enhanced.

C. Letters of support and recommendation from Members of Congress are not necessary and will not be considered in the evaluation and selection of proposals to receive cooperative agreement awards.

D. The solicitation inviting the submission of proposals shall be given the widest practical dissemination. All known eligible entities and those that request copies after the solicitation is issued will be provided a copy. All eligible entities that have advised DCMD of their interest in submitting a proposal under the SCAP will be invited to participate in preproposal conferences.

The preproposal conferences will be held at the locations designated in the solicitation approximately 30 calendar days prior to the SCAP's closing date.

E. Proposals will not be accepted from applicants who apply as co-equal partners or co-equal joint ventures. Only one organization can take the lead and primary responsibility for the program.

F. The SCAP shall not be considered to be an offer made by DoD. It will not obligate DoD to make any awards under this Program. DoD is not responsible for any monies expended or expense incurred by applicants prior to the award of a cost sharing cooperative agreement.

G. DoD's share of an eligible entity's proposal and award recipient's net program cost (NPC) shall not exceed 50%, unless the eligible entity/recipient proposes to cover a distressed area. If the eligible entity/recipient proposes to cover a distressed area (as defined in paragraph 3–3, subparagraph K below), the DoD share may be increased to an amount not to exceed 75%. In no event shall DoD's share of NPC exceed $150,000 for programs providing less than statewide coverage or servicing one BIA service area, and $300,000 for programs providing statewide coverage (defined in paragraph 3–3, subparagraph AE below) or servicing 100% of one BIA service area and at least 50% of one other BIA service area.

H. During each fiscal year (FY) for which funding is authorized for the PTA program, at least one cooperative agreement for either an existing program or a new start shall be awarded within the geographical cognizance of each DCMD. If the area being or to be serviced by an eligible entity encompasses more than one DCMD's area of geographical cognizance, the eligible entity should submit its application to the DCMD having cognizance over the majority of the area it is servicing or proposes to service. Only one application will be accepted from a single eligible entity.

I. The award of a cooperative agreement shall not in any way obligate DoD to enter into a contract or give preference for the award of a contract to a concern or firm which becomes a client of a DLA cooperative agreement recipient.

J. The period of performance for a cooperative agreement shall cover a twelve month period.

K. To assist DoD in achieving its socioeconomic goals, applicants and cooperative agreement recipients must give special emphasis to assisting small disadvantaged business (SDB) firms which are participating or will be participating in DoD contracting opportunities. A concerted effort must be made by recipients to identify SDB firms and provide them with marketing and technical assistance, particularly where such firms are referred for assistance by a DoD component.

L. The Federal Acquisition Regulation (FAR) contains numerous clauses and provisions which provide operational guidance and describe the rights and obligations of parties in Federal procurement transactions. Although the FAR is not applicable to cooperative agreements, some of the provisions contained in the FAR may be suitable for inclusion in cooperative agreement solicitation and award documents. Therefore, the clauses and provisions contained in the FAR may be made a part of all cooperative agreement solicitation and award documents if not otherwise covered under the Office of Management and Budget (OMB) Circulars A–102 (Grants and Cooperative Agreements with State and Local Governments) and A–110 (Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations). Where appropriate, the language of the clause(s) will be modified to change "contract" to "cooperative agreement" and "contractor" to "participant" as necessary.

M. Award recipients are not required to obtain or retain private profit and/or nonprofit consulting services. Any costs being proposed for such services shall not exceed 10% of the total program cost (TPC). Costs in excess of 10% included in the eligible entity's proposal will cause the proposal to be rejected.

N. Reasonable quantities of government publications, such as "Selling to the Military," may be furnished to award recipients at no cost, subject to availability. All requests for such publications must be submitted to the cognizant DCMD.

O. For the purpose of executing cooperative agreements, the HQ DLA Cooperative Agreement Program Manager (hereafter referred to as Program Manager) and the DCMD Associate Director of Small Business (hereafter referred to as Associate Director) are delegated the authority to execute cooperative agreements.

P. Each cooperative agreement recipient's area of performance will be limited to the geographical area specified in its cooperative agreement award, including modifications thereto.

Q. To the extent that the annual DoD authorization and appropriation acts provide for restricting some part of the total funds authorized to accommodate special socioeconomic requirements, any specific requirements related to the restricted funds which differ from this procedure will be identified in the SCAP.

3–2 Scope

This procedure implements Chapter 142 of Title 10, United States Code, as amended, and establishes procedure and guidelines for the award and administration of Cost Sharing Cooperative Agreements entered into between DLA and eligible entities. Under these agreements, financial assistance provided by DoD to recipients will cover the DoD share of the cost of establishing new and/or maintaining existing PTA programs for furnishing PTA to business entities.

3–3 Definitions

The following definitions apply for the purpose of this procedure.

A. *Act.* The enabling legislation that authorizes the establishment and continuation of the PTA Cooperative Agreement Program each fiscal year.

B. *Agency.* A field of one of the twelve service area offices, as published by the Bureau of Indian Affairs (BIA), U.S. Department of the Interior.

C. *Civil jurisdiction.* All cities with a population of at least 25,000 and all counties. Townships of 25,000 or more

population are also considered as civil jurisdictions in 4 States (Michigan, New Jersey, New York, and Pennsylvania). In Connecticut, Massachusetts, Puerto Rico and Rhode Island where counties have very limited or no government functions, the classifications are done for individual towns.

D. *Client.* A recognized business entity, including a corporation, partnership, or sole proprietorship, organized for profit or nonprofit, which is small or other than small, that has the potential or is seeking to market its goods or services to DoD and other Federal agencies.

E. *Consultant services.* Marketing and technical assistance offered by private nonprofit and/or profit seeking individuals, organizations or otherwise qualified business entities directly to cooperative agreement recipients.

F. *Cooperative agreement.* A binding legal instrument reflecting a relationship between DLA and a cooperative agreement recipient for the purpose of transferring money, property, services or anything of value to the recipient to accomplish the requirements described in the agreement. The requirement shall be authorized by Federal statute and substantial involvement shall be anticipated between DLA and the recipient during performance of the agreement.

G. *Cooperative agreement offer/application/proposal.* An eligible entity's response to the SCAP describing its existing or planned PTA program. The offer binds the eligible entity to perform the services described in the offer if selected for an award, and upon the proposal being incorporated into the cooperative agreement award document.

H. *Cost matching.* The portion of NPC not borne by the Federal Government. Usually, a maximum percentage of the Government's matching share is prescribed by the Act.

I. *Cost sharing.* Any situation wherein the Government does not fully fund the participant's total allowable costs required to accomplish the defined project or effort. The term encompasses concepts such as cost participation, cost matching, cost limitations (direct or indirect), and in-kind contributions/donations.

J. *Direct cost.* Any cost that can be identified specifically with a particular final cost objective. No final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose in like circumstances have been included in any indirect cost pool to be allocated to that or any other final cost objective.

K. *Distressed area.* The geographical area being or to be serviced by an eligible entity in providing PTA to business firms physically located within an area that:

(1) Has a per capita income of 80% or less of the State average; or

(2) Has an unemployment rate that is one percent greater than the national average for the most recent 24-month period in which statistics are available.

(3) Is a "Reservation" which includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

L. *DoD Cooperative Agreement Program.* Provides assistance to eligible entities (defined by subparagraph N below) in establishing or maintaining PTA activities to help business firms market their goods and services to the DoD and other government activities.

M. *Duplicate coverage.* A situation caused by two or more applicants offering to provide marketing and technical assistance to clients located within the same geographical area.

N. *Eligible entities.* Are organizations qualifying to submit a proposal under the PTA program, including:

(1) *State government.* A State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-state, regional, or interstate entity having governmental duties and powers.

(2) *Local government.* A unit of government in a State, a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.

(3) *Private, nonprofit organizations.* Any corporation, trust, foundation, or institution which is exempt or entitled to exemption under section 501(c)(3)–(6) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual.

(4) *Indian economic enterprise.* Any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized, whether or not such economic enterprise is organized for profit or nonprofit purposes; *Provided,* That such Indian ownership shall constitute not less than 51 per centum of the enterprise.

(5) *Tribal organization.* The recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided,* That in any case where a contract is let or grant made to an organization to perform benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making such contract or grant.

O. *Existing program.* Any PTA program that was the recipient of a cooperative agreement with DLA during FYs 89 and 90.

P. *Federal funds authorized.* The total amount of Federal funds obligated by the Federal government for use by the recipient. When authorized by statute, Federal funds received from other sources, including grants, may be used as cost sharing and/or cost matching contribution.

Q. *Indian.* A person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government is eligible for services from the BIA and any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

R. *Indian organization.* The governing body of any Indian tribe (as defined in subparagraph S below) or entity established or recognized by such governing body.

S. *Indian tribe.* Any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) which is recognized by the Federal Government as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

T. *Indirect cost.* Any cost not directly identified with a single, final cost objective, but identified with two or more final cost objectives of an intermediate cost objective. An indirect cost is not subject to treatment as a direct cost.

U. *In-kind contributions/donations.* Represent the value of noncash contributions provided by the eligible entity and non-Federal parties. Only when authorized by Federal legislation may property or services purchased with Federal funds be considered as in-kind contributions/donations. In-kind contributions/donations may be in the form of charges for real property and

nonexpendable personal property and the value of goods and services directly benefiting and specifically identifiable to the project or program.

V. *Net program cost.* The total program cost (TPC) (including all authorized sources) less any program income and/or other federal funds not authorized to be shared.

W. *New start.* An eligible entity that is not an existing program (see subparagraph O above for definition of an existing program).

X. *Other Federal funds.* Include Federal funds such as that provided by the Job Training Partnership Act, and Federal agencies other than DoD.

Y. *Per capita income.* The estimated average amount per person to total money income received during a calendar year for all persons residing in a given political jurisdiction as published by the U.S. Department of Commerce, Bureau of the Census.

Z. *Procurement technical assistance (PTA).* A program organized to generate employment and improve the general economy of a locality by assisting business firms in obtaining defense contracts.

AA. *Program income.* The gross income earned by the recipient from cooperative agreement supported activities. Such earnings exclude interest earned on advances. It includes training fees received from other PTA centers and organizations. It may also include, but is not limited to, income from service fees, reimbursement for expenses incurred in conducting the program, sale of commodities, usage initial fees, and royalties on patents and copyrights. It may be reported by the recipient on a cash or accrual basis. Whichever is used for reporting outlays.

AB. *Reservation.* Includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

AC. *Service area.* Any of the twelve geographical regions, as published by the U.S. Department of the Interior, BIA to include: Aberdeen, Albuquerque, Anardako, Billings, Eastern, Juneau, Minneapolis, Muskogee, Navajo, Phoenix, Portland and Sacramento.

AD. *Solicitation for cooperative agreement proposals (SCAP).* A document issued by DLA/DCMDs containing provisions and evaluation factors applicable to all applicants which apply for a PTA cooperative agreement.

AE. *Statewide coverage.* A PTA program which proposes to service at least 50% of the State's civil jurisdictions and 75% of State's labor force.

AF. *Total Program cost (TPC).* All allowable costs set forth in applicable OMB Circulars from all sources, to include in-kind contributions/donations and all income received from all sources, as a result of operating the program. Any Federal funds proposed for use in establishing or conducting the program must have prior approval for such use.

3-4 Program Description

A. The objective of the PTA Program is to assist eligible entities in providing marketing and technical assistance to business firms/ clients in selling their goods and services to DoD. Thus, the PTA program assists DoD in its acquisition goals. At the same time, it enhances the business climate and economies of the communities being served.

B. Program requirements to accomplish this objective will vary depending on location, the types of industries and business firms within the community, the level of economic activity in the community, and other factors.

C. A comprehensive PTA program should generally include the following minimum features:

(1) *Personnel.* Professional personnel qualified to counsel and advise business firms/clients regarding DoD procurement policies and procedures as they apply to both prime and subcontract opportunities. The areas of consideration should relate to marketing techniques and strategies, pricing policies and procedures, preaward procedures, postaward contract administration, quality assurance, production and manufacturing, financing, subcontracting requirements, bid and proposal preparation, and specialized acquisition requirements for such areas as construction, research and development, and data processing.

(2) *Counseling tools.* Should include, as a minimum, the Commerce Business Daily, FAR, DoD FAR Supplement, commodity listings from DoD contracting activities, Federal and military specifications and standards, and other Federal Government publications.

(3) *Method for providing PTA.* Should include networking throughout the area being or to be serviced. Examples of networking include: (a) Locating assistance offices in areas of industrial concentration; (b) establishing data links with other organizations; and (c) creating data exchanges.

(4) *Fees and service charges.* In the event the applicant presently charges or plans to charge clients a fee or service charge, details as to the basis for the amount of the fee or service charge must be described. Also, recipients shall not charge a commission, percentage, brokerage or other fee that is contingent upon the success of the client securing a Government contract. Any fees earned under the program are to be included as part of the TPC.

(5) *Performance measurement.* The program shall include a means of periodically measuring effectiveness in achieving its goals. Factors to consider in establishing time phased goals and techniques for measuring performance against proposed goals shall include as a minimum: (a) The total number of procurement outreach conferences sponsored/participated; (b) the total number of initial and follow-up counseling sessions and types of clients to be assisted, including size (small businesses and other than small businesses) and socioeconomic status (small disadvantaged and women-owned businesses); (c) the total number of client applications submitted to Federal agency bidders' mailing list(s); and (d) the total number and value of DoD and other than DoD prime contract and subcontract awards, and Federal agencies other than DoD prime contract and subcontract awards received by clients, including size (small businesses and other than small businesses) and socioeconomic status (small disadvantaged and women-owned businesses) resulting from assistance received through the recipient's program.

3-5 Procedures

A. The Program Manager will develop and prepare the SCAP. He/she will be responsible for assuring that adequate funds are made available to the DCMDs.

B. The SCAP will be approved by the HQ DLA Cooperative Agreement Policy Committee (hereafter referred to as Policy Committee) and will be issued by DLA through each DCMD. The Policy Committee will be comprised of representatives from the HQ DLA Offices of General Counsel, Contracting, Comptroller, Congressional Affairs and Small Business. The Policy Committee will be responsible for reviewing the evaluations and recommendations of the Program Manager and the Evaluation Panel.

C. The Staff Director, Small and Disadvantaged Business Utilization will serve as the Policy Committee's Chairman. The Policy Committee is the final appeal authority for disagreements

between the Program Manager, Associate Director and the eligible entity and/or cooperative agreement recipient.

D. The evaluation of proposals submitted in response to the SCAP and the selection of award recipients will be conducted as detailed below:

(1) Proposals will be evaluated by a specially constituted evaluation panel established at HQ DLA. The Evaluation Panel will be comprised of representatives from the DCMD offices of small business, contract management, and other offices deemed appropriate by the Policy Committee. However, the Program manager and the Associate Director, who are delegated the authority to execute cooperative agreements, shall not serve as panel members. A member of the office of Counsel, HQ DLA, will provide legal assistance to the Evaluation Panel, as needed.

(2) The Associate Director will perform an initial evaluation of each proposal received to determine if the proposal contains sufficient technical, cost and other information; has been signed by a responsible official authorized to bind the eligible entity; and generally meets all requirements of the SCAP. If the proposal does not meet all of these requirements, the Associate Director will remove the applicant's proposal from further consideration and promptly notify the applicant of the reason(s) for removal. The proposal will be retained with other unsuccessful proposals by the Associate Director. The Associate Director will forward all accepted proposals, along with his/her recommendations, to the Program Manager at HQ DLA.

(3) Under existing programs only, the applicant's PTA Performance Report (RCS Number DLA (Q) 2545) will be attached to the proposal by the cognizant Associate Director if it is not included in the application by the eligible entity.

(4) Revised proposals will not be accepted from applicants unless the revised proposal is postmarked or is hand delivered prior to the closing date of the SCAP. Any proposal which is unsigned or otherwise rejected will not be given additional evaluation consideration and will be retained with other unsuccessful applications by the Associate Director.

(5) As part of the initial evaluation of an otherwise acceptable proposal, the Associate Director will review and verify the accuracy of the classification of the proposal concerning the entity's stated program status as "existing" or a "new start." If the Associate Director considers the proposal status misclassified, the matter will be reviewed with the applicant. If there is disagreement, the Associate Director's decision regarding the program classification is final and is not subject to further review.

(6) Proposals which pass the initial evaluation phase are subjected to a comprehensive evaluation by the Evaluation Panel. The purpose of the comprehensive evaluation is to assess the merits of the proposals to determine which offer the greatest likelihood of achieving the stated program objectives considering technical, quality, personnel qualifications, estimated cost, and other relevant factors. The Evaluation Panel will conduct its evaluations in accordance with stated criteria and rank proposals in order of excellence to determine which will best further specific program goals. All findings and recipient selections will be documented, signed by the panel members, and retained by the Program Manager to provide an adequate record to support the Evaluation Panel's decisions. Upon completion of its review, the Evaluation panel will submit its results and its recommendations to the Program Manager.

(7) The Program Manager or designated representative will review the Evaluation Panel's recommendations and results for completeness, and will determine whether sufficient funds have been allocated to the DCMDs to cover DoD's share of NPC, whether any of the dollar limitations have been exceeded, and for duplicate program coverage. The Program Manager will forward his/her comments and the Evaluation Panel's recommendations to the Policy Committee.

(8) The Policy Committee will review the Evaluation Panel's award recommendations along with the program Manager's comments. The results of the Policy Committee's review and its recommendations will be forwarded to the appropriate DCMD Commander for approval.

F. After approval of the award selections by the DCMD Commander and congressional notification is provided, the cooperative agreements will be executed by the Associate Director.

3–6 Evaluation Factors

A. The evaluation factors for new starts and existing programs, with their relative importance, will be specified in the SCAP.

B. The following evaluation factors (which may be subject to change) will be considered:

(1) Program development, performance and effectiveness. (Existing Programs only.)

(2) Types and qualifications of personnel assigned or to be assigned to the program. (Existing Programs and New Starts.)

(3) Quality of the PTA Program being planned for developing clients, to include providing assistance to small disadvantaged business firms. (New Starts only.)

(4) Potential number of business firms/clients in the geographical area being or to be serviced. (Existing Program and New Starts.)

(5) The amount and percentage of net program costs to be shared by DoD. (Existing Programs and New Starts.)

(6) The level of unemployment in the area being or to be serviced. (Existing Programs and New Starts.)

(7) The amount of subcontracting to private consultants for consultant services. (Existing Programs only.)

C. As this program applies both to existing PTA Programs and to those being proposed, certain of these evaluation factors will be evaluated based upon stated implementing policy for programs being planned. For example, the types and qualifications of personnel assigned will require applicants that do not presently have an established program, but are planning to establish a program, to identify the standards to be used in selecting personnel.

D. The amount of subcontracting to private consultants for consultant services is limited to no more than 10% of total program costs for both existing programs and new starts.

However, in evaluating this factor for existing programs, the smaller the amount of subcontracting for consultant services the greater the weight that will be given. In the case of new starts, all offers will be weighted equally subject only to the 10% limitation.

3–7 DoD Funding

A. Any funds authorized by Congress for the PTA program will be allocated equitably among the DCMDs to cover the DoD share of the PTA's program costs for existing programs and for new starts.

B. If there is an insufficient number of satisfactory proposals in a DCMD to allow effective use of the funds allocated, the Program Manager will reallocate the funds among the DCMDs based upon the DCMD Commanders' approval of the award recommendations made by the Evaluation Panel and Policy Committee.

3–8 Cost Sharing Criteria and Limitations

A. The DoD share of NPC shall not exceed 50%, except in a case where an eligible entity meets the criteria of a distressed area. When the prerequisite conditions to qualify as a distressed area are met, the DoD share may be increased to an amount not to exceed 75%.

B. In no event shall the DoD share of NPC exceed $150,000 for programs providing less than statewide coverage and $300,000 for programs providing statewide coverage. For the Indian Program, a request for DoD share shall not exceed 75% of NPC or $150,000 for a program providing service on reservations within one BIA service area, or $300,000 for a program providing multi-area coverage.

C. Cost contributions may be either direct or indirect costs, provided such costs are otherwise allowable in accordance with the cost principles applicable to the award. Allowable costs which are absorbed by the eligible entity as its share of costs may not be charged directly or indirectly or may not have been charged in the past to the Federal Government under other contracts, agreements, or grants.

D. The SCAP will require applicants to submit an annualized estimated budget, which may include cash contributions, in-kind contributions/donations, any fees and service charges to be earned under the program, and any other Federal Agency funding (including grants, loans, and cooperative agreements) authorized to be used for this program.

E. The type and value of third-party in-kind contributions/donations will be limited to no more than 25% of TPC.

F. Any fees, service charges or Federal funds provided under another Federal financial assistance award, including loans (but not including loan guarantee agreements since these do not provide for disbursement of Federal funds) are not acceptable for calculating cost contributions of the eligible entity. Although the fees, service charges and other authorized Federal funds must be included in the annualized estimated budget, they cannot be included for cost sharing purposes. Inclusion of other Federal funds in the program is subject to the terms of the award instrument containing such funds or written advice being obtained from the awarding Agency(s) authorizing such use. Any method used by the eligible entity in providing the required funds which relies upon Federal funds must be disclosed and identified in the eligible entity's proposal.

G. In those cases where distressed area funding (greater than 50%) is requested and where the geographic area being or to be serviced includes both distressed areas and non-distressed areas, the budget must: (1) Be divided based on a reasonable and logical distribution of TPC between these two distinct areas; and (b) submitted as a single proposal. In such cases, the recipient's accounting system must be capable of segregating and accumulating costs in each of the two budget areas.

H. Recipients of cooperative agreements will be required to maintain records adequate to reflect the nature and extent of their costs and to insure that the required cost participation is achieved.

I. The SCAP will also provide that indirect costs are not to exceed 100% of direct costs.

J. In the event the applicant charges or plans to charge a fee or service charge for PTA given to clients, or to receive any other income as a result of operating the PTA Program, the estimated amount of such reimbursement is to be clearly identified in the proposed budget and shall be included as part of TPC.

K. The following OMB Circulars will be used to determine allowable costs in performance of the program:

(1) OMB Circular No. A–21, Cost Principles for Educational Institutions;

(2) OMB Circular No. A–87, Cost Principles for State and Local Governments; and

(3) OMB Circular No. A–122, Cost Principles for Nonprofit Organizations.

3–9 Duplicate Coverage Limitation

To be considered for an award, an applicant's proposal shall not duplicate on an individual or cumulative basis more than 25% of the geographic area or coverage proposed by a higher ranked applicant(s) as established by the Evaluation Panel.

3–10 Administration

A. Cooperative Agreements will be assigned to the cognizant DCMD for postaward administration.

B. The Associate Director at the cognizant DCMD will be responsible for performing in-depth reviews. These in-depth reviews will be performed annually for existing programs and semiannually for new starts during the effective period of each cooperative agreement. The review will include budgeted versus actual expenditures, performance factors, and quarterly performance report data. The result of the review will be furnished to the recipient and a copy will be provided to the Program Manager no later than 30 calendar days after its completion.

C. For eligible entities covered by OMB Circular No. A–102, Grants and Cooperative Agreements with State and Local Governments, or OMB Circular No. A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-profit Organizations, the administrative requirements specified in those circulars will apply.

DCMD PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM MANAGERS

State or area	DCMD	Associate director for small business
Delaware, District of Columbia, Kentucky, Maryland, Michigan (inclusive of Alcona, Arenac, Bay, Genesee, Hillsdale, Huron, Iosco, Jackson, Lapeer, Lenawee, Macomb, Midland, Monroe, Oakland, Ogemaw, Sconda, Saginaw, St. Clair, Sanilac, Tuscola, Washtenaw, Gladwin and Wayne counties), New Jersey, Ohio, Pennsylvania, Virginia and West Virginia.	DCMD Mid-Atlantic, 2800 South 20th St., P.O. Box 7478, Philadephia, PA 19101–7478.	Mr. Tom B. Corey, Telephone (215) 737–4006, Toll Free (PA only) 1–800–843–7694, Toll Free (Others) 1–800–258–95023.
Colorado, Illinois, Indiana, Iowa, Kansas, Michigan (except Alcona, Arenac, Bay, Genesee, Hillsdale, Huron, Iosco, Jackson, Lapeer, Lenawee, Macomb, Midland, Monroe, Oakland, Ogemaw, Oscoda, Saginaw, St. Clair, Sanilac, Tuscola, Washtenaw, Gladwin and Wayne counties), Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Utah, Wisconsin and Wyoming.	DCMD North Central, O'Hare Int'l Airport, 10601 West Higgins Rd., P.O. Box 66926, Chicago, IL 60666–0926.	Mr. James L. Kleckner, Telephone (312) 825–6020, Toll Free 1–800–826–1046.
Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.	DCMD Northeast, 495 Summer Street, 8th Floor, Boston, MA 02210–2184.	Mr. Edward J. Fitzgerald, Telephone (617) 451–4317/8, Toll Free (MA) 1–800–348–1011, (Outside MA) 1–800–321–1861.

DCMD PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM MANAGERS—Continued

State or area	DCMD	Associate director for small business
Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas (except El Paso, Hudspeth, and Presidio counties and portions of Culberson, Jeff Davis, Brewster and Terrell counties or Zip Codes 789xx and 799xx), and Puerto Rico.	DCMD South, 805 Walker Street, Marietta, GA 30060-2789.	Mr. Howard Head, Jr., Telephone (404) 590-6195/6, Toll Free 1-800-331-6415, (GA Only) 1-800-551-7801.
Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas (inclusive of El Paso, Hudspeth and Presidio counties and portions of Culberson, Jeff Davis, Brewster and Terrell counties or counties in the 789xx or 799xx Zip Codes), and Washington.	DCMD West, 222 N. Sepulveda Blvd., El Segundo, CA, 90245-4394.	Ms. E. Renee Deavens, Telephone (213) 335-3260, Toll Free (CA only) 1-800-233-6521, Toll Free (Others) 1-800-624-7373.

Sim C. Mitchell,
Cooperative Agreement Program Manager, Small and Disadvantaged Business Utilization.

[FR Doc. 90-29180 Filed 12-12-90; 8:45 am]

BILLING CODE 3620-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER91-25-000, et al.]

Tampa Electric Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

December 4, 1990.

Take notice that the following filings have been made with the Commission:

1. Tampa Electric Company

[Docket No. ER91-25-000]

Take notice that on November 28, 1990, Tampa Electric Company (Tampa Electric) tendered for filing an amendment to its October 12, 1990 submittal of a Letter of Commitment between Tampa Electric and Seminole Electric Cooperative, Inc. (Seminole). The Letter of Commitment provides for the sale by Tampa Electric to Seminole of 150 megawatts of capacity and energy.

Tampa Electric proposes an effective date of October 13, 1990, for the commitment of capacity and energy, and therefore requests waiver of the Commission's notice requirements.

Copies of the amendatory filing have been served on Seminole and the Florida Public Service Commission.

Comment date: December 17, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Minnesota Power & Light Company

[Docket No. ER91-110-000]

Take notice that on November 8, 1990, Minnesota Power & Light Company (MP&L) tendered for filing the following notices of cancellation:

City	Rate schedule No.	Effective date
Proctor, Minnesota	FERC No. 115	12/31/89
Nashwauk, Minnesota.	FERC No. 116	12/31/89
Biwabik, Minnesota	FERC No. 103	12/31/89

Comment date: December 13, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Canal Electric Company

[Docket No. ER91-121-000]

Take notice that on November 21, 1990, Canal Electric Company tendered for filing a Notice of Termination for Supplement 18 to Rate Schedule FERC No. 21 and Rate Schedule FERC No. 34.

Comment date: December 14, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. West Penn Power Company

[Docket No. ER91-61-000]

Take notice that on November 16, 1990, West Penn Power Company ("West Penn") tendered for filing in this docket a settlement agreement with the Borough of Mont Alto and a statement of consent of the Pennsylvania Power and Light Company regarding the rate filing by West Penn in this docket.

Comment date: December 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Panther Creek Partners

[Docket No. QF87-59-004]

On November 29, 1990, Panther Creek Partners, c/o Constellation Energy, Inc., 250 West Pratt Street, 23rd floor, Baltimore, MD 21201, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in the Borough of Nesquehoning, near the Town of Jim Thorpe, Carbon County, Pennsylvania. The facility will consist of two circulating fluidized bed boilers and an extraction/condensing steam turbine generator. The primary energy source is waste anthracite culm. In addition, the facility includes 33 miles of 69 KV transmission line. The original certification was issued on May 21, 1987, 39 FERC ¶ 61,190. The instant recertification is requested due to change in ownership and a change in design resulting in an increase in the net electric power production capacity from 79.5 MW to 83 MW. Applicant states that CD Panther Partners, L.P., an indirect subsidiary of Baltimore Gas and Electric Company, an electric utility, will have a 50% ownership interest in the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

6. Interstate Power Company

[Docket No. ER91-136-000]

Take notice that on November 26, 1990, Interstate Power Company (Interstate) tendered for filing the First Amendment, dated May 17, 1989, to the Municipal Electric Wholesale Agreement dated August 21, 1974 with the City of St. Charles, Minnesota. This amendment revises the language concerning the point of delivery to St. Charles and adds a new provision requiring the City to reimburse Interstate for any FERC filing fees related to the Agreement.

Comment date: December 18, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Kentucky Utilities Company

[Docket No. ER91-123-000]

Take notice that on November 16, 1990, Kentucky Utilities Company (Kentucky) tendered for filing Rate Schedules inclusive of executed contracts for electric service with 10 municipally-owned electric systems, Berea College and Old Dominion Power Company.

Kentucky states that the filing of these rate schedules is the last step of FERC Docket No. ER78-417 and is a compliance filing.

Comment date: December 14, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Consolidated Edison Company of New York, Inc.

[Docket No. ES91-9-000]

Take notice that on November 28, 1990, Consolidated Edison Company of New York, Inc. ("Applicant") filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, for authority to issue and sell not more than $250 million of unsecured evidences of indebtedness during the period January 1, 1991 through December 31, 1992, maturing not more than nine months after their date of issuance.

Comment date: December 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-29149 Filed 12-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-500-000, et al.]

El Paso Natural Gas Co., and Western Gas Interstate Co., et al; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Co. and Western Gas Interstate Co.

[Docket No. CP91-500-000]

December 4, 1990.

Take notice that on November 21, 1990, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, and Western Gas Interstate Company (WGI), 9130 Jollyville Road, Suite 150, Austin, Texas 78759, jointly referred to as Applicants, filed a joint application in Docket No. CP91-500-000 pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval for El Paso to abandon certain facilities and for a certificate of public convenience and necessity for WGI authorizing: the acquisition and operation of certain of these facilities owned and operated by El Paso, the sale for resale of natural gas, the self-implementing transportation of natural gas for others under Order Nos. 436 and 500, *et seq.*; and pregranted authorization to abandon self-implementing transportation services and jurisdictional sales services, such authorizations being necessary for El Paso and WGI to facilitate the implementation of the "El Paso Area Project", all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The joint application states that the El Paso Area Project represents an overall joint effort between El Paso, WGI and Southern Union Gas Company (SUG) [1] that will assist El Paso in disposing of certain facilities no longer compatible with the operation of El Paso's interstate system. It is stated that the facilities to be transferred serve a local function like a distribution system, not a function like an interstate mainline transmission facility. El Paso requests authorization to abandon by sale and conveyance: (1) To WGI certain pipeline, metering and tap facilities, with appurtenances, constituting the El Paso Area System, which system consists of facilities located in Dona Ana County, New Mexico, and El Paso County, Texas; and (2) to SUG certain pipeline, with appurtenances, constituting the Dell City System, which system consists of facilities located in Hudspeth County, Texas.

While El Paso states that it does not propose to abandon any service as a part of the application, certain sales and transportation services will no longer be rendered by El Paso through specific use of the abandoned facilities. El Paso states that it will make sales and transportation deliveries to WGI at master meter locations for transportation by WGI to the appropriate El Paso customer delivery point. El Paso states that if the Commission deems this to represent an abandonment of service, then El Paso requests such authority as may be necessary.

It is stated that the El Paso Area Project is designed to permit: (1) The resolution of certain operational problems in the affected service areas; (2) the identification of realistic natural gas service levels; (3) the conveyance of certain natural gas facilities by El Paso to WGI and SUG; and (4) cooperation towards the overall enhanced utilization of natural gas as the primary energy source in the SUG and Gas Company of New Mexico (Gas Company) service areas surrounding the facilities.

Pursuant to an agreement dated July 2, 1987, as amended, between El Paso and WGI, El Paso states that it has agreed to sell to WGI and WGI has agreed to purchase certain pipeline, metering and tap facilities, currently being utilized by El Paso in providing natural gas service to SUG and Gas Company for resale in and about the City of El Paso, Texas and the Town of Anthony, New Mexico, and their environs and for direct sale to certain industrial customers. The facilities to be transferred serve customers at numerous delivery points and will, upon transfer, be utilized by WGI with SUG's existing distribution system in the El Paso, Texas area and Gas Company's existing distribution system in the Anthony, New Mexico area. It is stated that such facilities are typical of the other facilities owned and operated by WGI to render service to SUG and Gas Company. El Paso states that it presently utilizes the facilities to be sold to WGI to deliver gas at approximately 67 separate locations in southwest New Mexico and west Texas. Following the proposed transfer of facilities, El Paso states that it will deliver gas to WGI at three new delivery points, for subsequent transportation and delivery of the gas by WGI to any customers El Paso may have the requirement to serve.[2]

It is stated that the facilities are classified in three categories of pipeline lateral, meter stations and sales taps and described as follows: (1) Pipeline laterals—a total of approximately 61.7

---

[1] SUG, an operating division of Southern Union Company, is a distributor customer of El Paso, which owns and operates facilities for the distribution and sale of natural gas to consumers situated in various communities and areas in the States of Texas and Arizona

[2] It is stated that the new delivery points, referred to as the Anthony City Gate Meter Station and the El Paso City Gate No. 2 Meter Station will be the subject of a prior notice request to be filed by El Paso under § 157.211(b) of the Commission's Regulations with an effective date to coincide with the effectiveness of the proposal herein. The El Paso City Gas No. 1 meter station will be relocated pursuant to § 157.208(a) of the Commission's Regulations.

miles of 16, 12¾, 10¾, 8⅝, 6⅝, 4½, 3½, 2⅜ and 1½ inch pipeline located in Dona Ana County New Mexico and El Paso County, Texas; (ii) meter stations—34 meter stations situated on the pipeline facilities to be abandoned by sale; and (iii) sales taps—33 sales taps, also located on the pipeline facilities to be abandoned.

The joint application further states that pursuant to an agreement dated February 9, 1988, between El Paso and SUG, El Paso has agreed to sell to SUG and SUG has agreed to purchase certain pipeline facilities, currently being utilized by El Paso in providing natural gas service to SUG for resale in and about Dell City, Texas. These facilities also primarily provide a local function like a distribution system, rather than a transmission function. It is stated that upon transfer, these facilities will be utilized directly by SUG as an integrated part of SUG's existing natural gas distribution system presently serving the Dell City, Texas area. Upon completion of the proposed transfer of the Dell City System, El Paso states that it will deliver gas to SUG at the point of interconnection between the Dell City line and El Paso's mainline transmission system. It is further stated that the existing delivery point will be relocated by El Paso pursuant to § 157.208(a) of the Commission's Regulations. The facilities comprising the Dell City System proposed to be abandoned consist of a total of approximately 7 miles of 4½-inch pipeline lateral located in Hudspeth County, Texas.

El Paso states that it presently utilizes the El Paso Area System to perform three different services, which are: (1) Providing sales for resale to SUG and Gas Company; (2) delivery of gas for direct sale to certain industrial customers; [3] and (3) providing non-discriminatory open-access transportation when requested. As to the Dell City System, El Paso states that it presently utilizes this system to provide a sale for resale service to SUG, as well as non-discriminatory open-access transportation service. Upon the abandonment and sale to WGI as proposed herein, El Paso states that volumes of natural gas, equivalent to those El Paso presently sells and delivers to SUG and Gas Company in the area served by said facilities, will be delivered at the three new sales meter locations. El Paso states that there will be no abandonment of service to the customers involved in the proposed transaction.

In this regard, to the extent deemed necessary by the Commission, El Paso seeks authorization to abandon the related sales for resale service to SUG and Gas Company using El Paso facilities. The proposed sales of natural gas by El Paso to SUG and Gas Company will be made pursuant to the provisions of the currently effective service agreements between the parties. El Paso further states that the rates it will charge to SUG and Gas Company will be rates under El Paso's rate schedules for the sales of gas made in the states of Texas and New Mexico, respectively, in El Paso's FERC Gas Tariff, Second Revised Volume No. 1, at the time the instant proposal becomes effective. It is stated that there will be no reduction in operating pressures or throughput in the El Paso Area System as a result of the proposed abandonment.

It is stated that direct sales are presently being made by El Paso utilizing the El Paso Area System under three separate gas sales agreements between, respectively, El Paso and ASARCO dated May 1, 1983; El Paso and EPEC dated July 1, 1967; and El Paso and Southwestern dated April 1, 1983. El Paso states that the primary terms of each of these agreements has terminated and each agreement is on a month-to-month basis. El Paso states that future direct sales service to these parties are the subject of ongoing negotiations and of El Paso continues to make such sales, it will deliver gas to WGI for transportation to each direct sale customer. If such sales cease, El Paso states that it will seek any authority necessary to abandon the transportation and delivery of gas.

El Paso states that it currently provides self-implementing open-access transportation service for various parties from existing points of receipt on El Paso's interstate transmission system to existing points of delivery located on the El Paso Area System, pursuant to subparts B and G of part 284 of the Commission's Regulations. Upon grant of the authorizations sought herein, El Paso states that it will file subsequent reports with the Commission, under § 284.106(b) of the Regulations, reflecting the necessary changes to each subpart B arrangement due to the conveyance of the El Paso Area System to WGI. El Paso states that it understands that WGI will continue, as appropriate, such transportation as may be authorized by the Commission.

Upon grant of the abandonment and sale to SUG proposed herein, El Paso states that the total volume of natural gas which it is presently obligated to sell to SUG for the Dell City, Texas area will be provided by El Paso at one new master meter location referred to as the Dell City Meter Station. El Paso states that it will relocate the existing meter station under Section 157.208(a) of the Regulations, and that there will be no abandonment of service involved in the proposed transaction. El Paso states that it currently provides self-implementing open-access transportation service for various parties from existing points of receipt on El Paso's interstate transmission system to existing points of delivery located on the Dell City System, pursuant to subparts B and G of part 284 of the Commission's Regulations. Upon grant of the authorizations sought herein, El Paso states that it will file subsequent reports with the Commission, under § 284.106(b) of the Regulations, reflecting the necessary changes to each Subpart B arrangement due to the conveyance of the Dell City System to SUG. El Paso states that it understands that WGI will continue, as appropriate, such transportation as may be authorized by the Commission.

It is stated that WGI's proposed acquisition of the facilities located in Dona Ana County, New Mexico, referred to as the Valley Division facilities is prompted by, among other things, El Paso's transition from the merchant function to operating primarily as a long distance transporter; WGI's existing service affiliation with SUG and Gas Company; and WGI's desire and ability to offer customers the kinds of services that are most required in the distribution and industrial sales markets, and to encourage development of additional markets in the service area. As part of this joint application, WGI also seeks authorization required to construct certain appurtenant facilities and to purchase certain equipment that is necessary in order to provide the proposed services. WGI's estimated total costs for the acquisition, regulatory and administrative cost and costs to construct appurtenant facilities is $1,063,005, which will come from internally generated funds.

As part of its acquisition of the El Paso facilities, WGI requests authorization to render firm sales service, blanket certificate service and pregranted abandonment.[4] In regard to

[3] El Paso states that the industrial customers are ASARCO Incorporated (ASARCO), El Paso Electric Company (EPEC) and Southwestern Portland Cement Company (Southwestern).

[4] WGI states that it currently holds certificate authorization to render jurisdictional sales for resale service for SUG on WGI's Northern Division and to SUG and Gas Company on its Southern Division.

the firm sales service, WGI intends to offer a general jurisdictional sales service pursuant to a proposed Rate Schedule CD–V. For such service, it is stated that WGI's customers will pay, each month a demand and commodity charge. It is stated that the monthly demand charge is $.0953/MMBtu and the per unit commodity charge is $2.6875/MMBtu. The commodity charge includes gas costs of $2.6820/MMBtu that are based on WGI's current cost of acquiring gas for its existing sales service in its Southern Division and which are subject to a Purchased Gas Adjustment Division and which are subject to a Purchased Gas Adjustment clause as defined in Original Volume No. 1–A General Terms and Conditions. It is stated that the non-gas portion of these rates has been derived on an incremental basis based solely on the cost of service associated with the acquisition of facilities from El Paso, the cost of new facilities and the costs associated with operating the facilities. Further, the allocation of fixed costs between demand and commodity charges is based on the Modified-Fixed Variable cost classification methodology. In addition, costs have been allocated to WGI's proposed sales service and the rates are designed based on projected peak day and annual volumes.

Pursuant to the General Terms and Conditions of Volume No. 1–A to WGI's FERC Gas Tariff proposed herein, WGI will accord prospective sales customers with an open nomination period, which will close 30 days following WGI's acceptance of the various authorizations sought by the joint application herein. WGI, therefore, states that it is seeking the requisite certificate authorization to render the foregoing contract demand sales services pursuant to the terms and rates set forth herein. The gas supplies which underlie this service will be purchased from El Paso under Rate Schedule ABD–S, or superceding rate schedule. In addition, WGI states that it will seek to purchase other gas supplies in order to offer its customers the best competitively priced gas supplies available.

As to the blanket certificate service, WGI seeks issuance of a certificate authorizing it to engage in self-implementing transportation of natural gas for others under the Commission's open-access program pursuant to Order Nos. 436, *et seq.* and 500, *et seq.*[5] As part of such request, WGI seeks authorization to provide firm and interruptible transportation services for shippers on a non-discriminatory basis under proposed Rate Schedules FT–V and IT–V, respectively, and pursuant to the proposed Volume No. 1–A General Terms and Conditions. It is stated that the firm transportation service will be provided under a two part demand-commodity rate with a monthly reservation charge of $.0953/MMBtu and a commodity charge of $.0055/MMBtu. WGI states that, as with the derivation of the non-gas portion of the rates under Rate Schedule CD–V, these rates have also been derived on an incremental basis based solely on the cost of service associated with the acquisition of facilities from El Paso, the cost of new facilities and the costs associated with operating the facilities.

WGI further states that no costs associated with its existing services under Rate Schedules G–N (Northern Division) and G–S (Southern Division) have been allocated to the new service to be provided under Rate Schedule CD–V. According to WGI, the allocation of fixed costs between demand and commodity charges is based on the Modified-Fixed Variable cost classification methodology. In addition, costs have been allocated to WGI's proposed firm transportation service and the rates are designed based on projected peak day and annual volumes.

WGI states that its proposed maximum interruptible transportation rate is $.0086/MMBtu, which is equivalent to the firm transportation rates at a 100 percent load factor. WGI's proposed minimum interruptible transportation rate is $.0055/MMBtu. In addition to the cost based firm and interruptible transportation rates, WGI proposes to retain 2 percent of all transportation volumes to compensate for lost and unaccounted for gas.

It is stated that customers desiring transportation services will be accorded an open nomination period which will close 30 days after the Commission issues the various authorizations sought by the joint application herein. At the close of the nomination period, WGI state that it will tender service agreements under the applicable rate schedule to those customers making such nominations, and file such with the Commission. In the event industrial customers request purchases from WGI, WGI states that it will use its best efforts to meet such requests, making appropriate filings with the Commission as may be required.

WGI also states that its proposal contains provisions whereby customers served under Rate Schedule CD–V will be permitted to convert part or all of their firm sales entitlements to firm transportation service under Rate Schedule FT–V. These customers will retain a higher priority for service and curtailment purposes than customers receiving service pursuant to Rate Schedule IT–V. It is stated that such conversion rights will be pursuant to provisions of § 20.5 of the General Terms and Conditions proposed herein, and will commence with WGI's acceptance of the blanket certificate.

In conjunction with its open-access blanket certificate, WGI requests pregranted abandonment authorization permitting it to abandon self-implementing transportation services and sales services under Rate Schedule CD–V in cases where the latter customers convert their sales entitlements to firm transportation.

Applicants state that the proposed sale of the subject facilities will be beneficial to the respective local distribution companies, SUG and Gas Company, as well as to the natural gas customers in the respective service areas affected. Insofar as El Paso and its present customers are concerned, it is stated that the abandonment of facilities will allow El Paso to cease its participation in a local service function and instead to continue its transition to that of an interstate transporter of natural gas. Further, the sale will eliminate the operating and maintenance expenses of El Paso now associated with the facilities, and El Paso will not need to own, maintain or operate pipeline facilities within congested areas of population encroachment. In addition, it is stated that the new meter stations will provide El Paso with a greater degree of control over and increased efficiency in measuring and regulating natural gas delivered to El Paso and Dell City, Texas and Anthony, New Mexico and their environs.

It is stated that approval of the proposed abandonment of the El Paso Area System and the Dell City System and approval of the acquisition and operation of said facilities by WGI and SUG will benefit El Paso, WGI and SUG and the customers served by the systems. It is further stated that no interruption, reduction or termination of natural gas service to any El Paso's customers will result after the proposed abandonment. El Paso states that the original cost of all facilities proposed to

[5] WGI states that it currently has pending before the Commission an uncontested settlement in Docket No. RP89–179–000, *et al.*, which involves, among other things, a request for a blanket certificate, and rates, involving WGI's two other divisions. WGI further states that, to its knowledge and belief, the settlement does not affect the instant application.

be abandoned is $3,266,490, and WGI and SUG will purchase such facilities from El Paso for a total price of $770,000.[6]

Comment date: December 26, 1990, in accordance with Standard Paragraph F at the end of this notice.

2. Southern Natural Gas Co., et al.

[Docket Nos. CP91-508-000, CP91-509-000, CP91-510-000, CP91-511-000, and CP91-512-000]

December 4, 1990.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[7]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: January 18, 1990, in accordance with Standard Paragraph G at the end of this notice.

[6] It is stated that WGI's purchase price for the El Paso Area System is $738,045 and SUG's purchase price for the Dell City System is $31,955.

[7] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1]avg., annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91-508-000 11-27-90	Southern Natural Gas Company.	Phillips Petroleum Co.	50,000 50,000 18,250,000	Offshore TX, LA, MS, AL.	GA, SC	IT, Interruptible, 9/25/90	CP88-316-000, ST91-2336-000.
CP91-509-000 11-27-90	Southern Natural Gas Company.	Cullman-Jefferson Counties Gas District. 4,301 4,301 1,569,805	Offshore TX, LA, MS, AL	AL	FT, Firm, 9/25/90	CP88-316-000, ST91-2338-000	
CP91-510-000 11-27-90	Viking Gas Transmission Company.	Canadian Occidental Marketing Co.	100,000 100,000 36,500,000	WI, MN, ND	MN, IL, WI, MI	IT-2, Interruptible, 11/10/90	CP90-273-000, ST91-3803-000.
CP91-511-000 11-27-90	Tennessee Gas Pipeline Co.	Citizens Gas Supply Corp.	10,000 10,000 3,650,000	Offshore LA	TN, MS, WV	FT, Firm, 11/1/90	CP87-115-000, ST91-3805-000.
CP91-512-000 11-27-90	Florida Gas Transmission Company.	City of Gainesville Fla. d/b/a Gainesville Regional Util.	4,852 1,988 967,072	FL	FL	FTS-1, Firm, 10/1/90	RP89-50, et al., ST91-1951-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. Columbia Gulf Transmission Co.

[Docket No. CP91-496-000]

December 5, 1990.

Take notice that on November 21, 1990, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP91-496-000 an application pursuant to section 7(b) of the Commission's Regulations under the Natural Gas Act for an order granting permission and approval for the abandonment of a transportation service for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gulf states by Commission order issued April 29, 1981, in Docket No. CP80-318-000, it is authorized to transport for Southern on a contract-demand basis, 6,250 Mcf per day of natural gas volumes produced from Vermilion Block 287, offshore Louisiana which Southern makes available to Columbia Gulf at an underwater side tap on its jointly owned 16-inch pipeline in Vermilion Block 267, offshore Louisiana. Columbia Gulf transports the gas through its capacity in the Blue Water Project west lateral and mainline systems and delivers such gas to Southern at the interconnection of the mainline facilities of Columbia Gulf and the measurement facilities of Southern in Carroll Parish, Louisiana. Columbia Gulf states that it performs such transportation service pursuant to a transportation agreement dated January 21, 1980, as amended, on file in said docket.

It is further stated that Columbia Gulf requests authorization to abandon this transportation service pursuant to a letter from Southern cancelling the agreement under which the gas is transported, effective March 2, 1991. Columbia Gulf further states that no facilities are proposed to be abandoned.

Comment date: December 26, 1990, in accordance with Standard Paragraph F at the end of this notice.

4. Columbia Gulf Transmission Co.

[Docket No. CP91-495-000]

December 5, 1990.

Take notice that on November 21, 1990, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP91-495-000 an application pursuant to section 7(b) of the Commission's Regulations under the Natural Gas Act for an order granting permission and approval for the abandonment of a transportation service

for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gulf states by Commission order issued August 14, 1978, in Docket No. CP78-382-000, it is authorized to transport for Transco on a contract-demand basis, 3,000 Mcf per day of natural gas volumes which is produced in the Orange Grove/Humphreys Field, Terrebonne Parish, Louisiana. Transco makes these volumes available to Columbia at a point in Terrebonne Parish, Louisiana. Columbia Gulf redelivers the gas to Transco at an interconnection with Transco's pipline in Evangeline Parish, Louisiana.

It is further stated that Columbia Gulf requests authorization to abandon this transportation service pursuant to a letter from Transco cancelling the agreement under which the gas is transported, effective August 13, 1990. Columbia Gulf further states that no facilities are proposed to be abandoned.

Comment date: December 26, 1990, in accordance with Standard Paragraph F at the end of this notice.

5. K N Energy, Inc.

[Docket Nos. CP91-523-000, CP91-524-000, CP91-525-000]

December 5, 1990.

Take notice that K N Energy, Inc., P.O. Box 150265, Lakewood, Colorado 80215, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP89-1043-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[8]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Comission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: January 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

[8] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-523-000 (11-29-90)	Sunrise Energy Company.	20,000 20,000 7,300,000	CO, KA, NE, WY	CO, KA, WY	10-31-90, IT, Interruptible.	ST91-3802-000, 11-1-90.
CP91-524-000 (11-29-90)	City of Wisner, Nebraska.	248 95 34,800	Ford County, KS	Cuming County, NE	03-01-90, FT, Firm.	ST91-3800-000, 11-1-90.
CP91-525-000 (11-29-90)	Tex/Con Gas Marketing Company (Marketer).	50,000 50,000 18,250,000	TX, OK	TX, OK	08-10-89, IT, Interruptible.	ST91-3801-000, 11-1-90.

6. ANR Pipeline Co.

[Docket Nos. CP91-514-000,[9] CP91-515-000, CP91-516-000, CP91-517-000, CP91-518-000 and CP91-519-000]

December 5, 1990.

Take notice that on November 28, 1990, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243 filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by ANR and is included in the attached appendix.

ANR also states that it would provide the service for each shipper under an executed transportation agreement, and that ANR would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: January 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

[9] These prior notice requests are not consolidated.

Docket number	Shipper name	Peak day [1] Avg. Annual	Points of Receipt	Points of Delivery	Start up date rate schedule	Related [2] Dockets
CP91-514-000	Herbert Oil and Gas Company.	50,000 50,000 18,250,000	IL, WI, IN, OH, MI, TX, LA, KY, Off LA.	LA, IN, MI, OH, IL, KS	9-29-90, ITS	ST91-0863-000.
CP91-515-000	NGC Transportation, Inc	10,000 10,000 3,650,000	OK	OK	10-1-90, ITS	ST91-2204-000.
CP91-516-000	Odeco Oil and Gas Company.	50,000 50,000 18,250,000	LA, TX, OK, KS, Off TX, Off LA.	KY, IN, MI, OH, IL, Off LA.	9-27-90, ITS	ST91-0861-000.

Docket number	Shipper name	Peak day [1] Avg. Annual	Points of Receipt	Points of Delivery	Start up date rate schedule	Related [2] Dockets
CP91-517-000	Northwestern Mutual Life Insurance Co.	50,000 50,000 18,250,000	LA, TX, Off LA, Off TX	MI	10-3-90, ITS	ST91-2713-000.
CP91-518-000	Howard Energy Gas Company.	100,000 100,000 36,500,000	MI, KY, LA, OK, WI, KS, TX, LA, Off LA, Off TX.	MI, IL, IN, OH	10-1-90, ITS	ST91-2206-000.
CP91-519-000	Interstate Gas Marketing Inc.	4,061 4,061 1,482,265	LA, Off LA	OH	10-1-90, FTS-1	ST91-2202-000.

[1] Quantities are shown in dekatherms unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

7. Northern Natural Gas Co., Division of Enron Corp

[Docket No. CP91-521-000]

December 5, 1990.

Take notice that on November 29, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-521-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for West Point Services, Inc., a marketer, under the blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that, pursuant to an agreement dated October 17, 1990, under its Rate Schedule IT-1, it proposes to transport up to 1,000 MMBtu per day equivalent of natural gas. Northern indicates that the gas would be transported from Texas, Kansas, and Oklahoma, and would be redelivered in Iowa. Northern further indicates that it would transport 750 MMBtu on an average day and 365,000 MMBtu annually.

Northern advises that service under § 284.223(a) commenced November 1, 1990, as reported in Docket No. ST91-3036.

Comment date: January 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

8. Lone Star Gas Co., a Division of ENSERCH Corp.

[Docket No. CP87-190-011]

December 5, 1990.

Take notice that on November 28, 1990, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP87-190-011 a petition to further amend the certificate issued in Docket No. CP87-190-000, as amended, to add a new receipt point for its authorized transportation service for Coastal States Gas Transmission Company (Coastal), pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is indicated that on November 1, 1990, Lone Star and Coastal amended their transportation agreement to add a receipt point located at an existing metering facility at the interconnection of Lone Star's Line TCA-A-10 and Arkla Energy Resources' pipeline facilities in McClain County, Oklahoma. Lone Star states that it needs the proposed new receipt point because of unforseen operational problems which have resulted in reduced deliveries by Natural Gas Pipeline Company of America at the existing point of receipt on Lone Star's Line T1 in Stephens County, Oklahoma.

Lone Star states that no new facilities would be required to implement the modified service. No other changes are proposed.

Comment date: December 26, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

9. Ohio River Pipeline Corp. and Indiana Gas Co. Inc.

[Docket No. CP91-455-000]

December 5, 1990.

Take notice that on November 19, 1990, Ohio River Pipeline Corporation (Ohio River) and Indiana Gas Company, Inc. (Indiana Gas) (collectively referred to as Applicants), 1630 North Meridian Street, Indianapolis, Indiana 46202-1496, filed in Docket No. CP91-455-000 an application pursuant to section 7(f) of the Natural Gas Act, requesting a service area determination for the area in which Ohio River currently operates and subject to the conditions and waivers requested, Indiana Gas would operate in the future, and that the Commission waive regulatory requirements that would otherwise apply to Indiana Gas if Ohio River is merged or otherwise combined with Indiana Gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is averred that Ohio River is a wholly-owned subsidiary of Indiana Gas and was created to provide Indiana Gas with access to Texas Gas Transmission Corporation's (Texas Gas) pipeline in Kentucky without rendering Indiana Gas to be a "natural gas company" subject to the Commission's jurisdiction. It is alleged that Ohio River serves as a conduit between two discrete portions of Indiana Gas' service areas located in Indiana and a Texas Gas pipeline located immediately south of the Indiana border within Kentucky. Ohio River's two pipelines cross the Ohio River and total approximately twenty five miles in length.

It is stated that the Applicants seek all the authorizations and relief necessary to enable Indiana Gas to eliminate Ohio River, through a merger or other combination, and to assume the operational functions currently performed by Ohio River without rendering Indiana Gas subject to the full panoply of requirement incident to Commission regulation as a "natural gas company".

The Applicants claim that currently and historically, Indiana Gas has maintained Ohio River as a separate provider of natural gas service so that Indiana Gas could access supplies from Texas Gas without rendering Indiana Gas a "natural gas company" subject to the Commission's jurisdiction. The Applicants also claim that this relationship does, and has, posed burdens upon Ohio River, Indiana Gas, and the Commission because of the necessary complaince by Ohio River with the regulatory requirements imposed upon a "natural gas company". It is averred that to the extent that Indiana Gas can assume the operation functions currently performed by Ohio

River without becoming subject to the Commission's jurisdiction, there would be a substantial reduction in regulatory and administrative compliance from the Applicant's perspective. The Applicants contend that the deletion of Ohio River from the Commission's jurisdiction would lessen the pressure placed on the Commission's resources and would enable the Commission to increase its focus upon regulatory compliance by major pipelines.

The Applicants propose to eliminate Ohio River through a merger or other combination with Indiana Gas, provided that Indiana Gas receives a service area determination from the Commission limited to (a) The two discrete portions of Indiana Gas' service area served currently by Ohio River and (b) the rights of way traversed by Ohio River's facilities. The Applicants further request that the order be conditioned so that Indiana Gas receive the waiver requested in this application and a companion proposal filed by Ohio River in Docket No. CP91-454-000 to abandon sales service to Indiana Gas, its purchase obligation to Texas Gas, and its part 157 blanket certificate. The Applicants indicate that following the occurrences of the required conditions and the integration of Ohio River's operations into Indiana Gas, Indiana Gas would continue to function as a local distribution company within Indiana. The sole difference would be that Indiana Gas' facilities would then extend beyond the Indiana-Kentucky border in order to interconnect with Texas Gas' pipeline. It is alleged that Indiana Gas would not use its Commission-determined service area to provide natural gas service to the public directly or indirectly within Kentucky.

Comment date: December 26, 1990, in accordance with Standard Paragraph F at the end of the notice.

10. Ohio River Pipeline Corp.

[Docket No. CP91-454-000]

December 5, 1990.

Take notice that on November 19, 1990, Ohio River Pipeline Corporation (Ohio River), 1630 North Meridian Street, Indianapolis, Indiana 46202-1496, filed in Docket No. CP91-454-000, an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon sales service to Indiana Gas Company, Inc. (Indiana Gas), abandon Ohio River's purchase obligation to Texas Gas Transmission Corporation (Texas Gas), and abandonment of Ohio River's part 157 blanket certificate, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is averred that Ohio River and Indiana Gas have entered into an agreement under which Ohio River would be merged or otherwise combined with Indiana Gas. Ohio River seeks authority to abandon its purchase obligation from Texas Gas and its part 157 blanket certificate at that time. Ohio River requests that the proposed authority become effective on the merger into or other combination of Ohio River and Indiana Gas.

It is alleged that Ohio River serves as a conduit between two discrete portions of Indiana Gas' service areas located in Indiana and a Texas Gas pipeline located immediately south of the Indiana border within Kentucky. Ohio River's two pipelines cross the Ohio River and total approximately twenty five miles in length. It is averred that Ohio River has no full time employees and its personnel requirements are primarily satisfied through the part-time efforts of Indiana Gas' employees. Ohio River is a wholly-owned subsidiary of Indiana Gas and was created to provide Indiana Gas access to Texas Gas' pipeline in Kentucky without rendering Indiana Gas to be a "natural gas company" subject to the Commission's jurisdiction.

Ohio River contends that it purchases natural gas only from Texas Gas. Pursuant to an order issued July 25, 1952, 11 FPC 227, Texas Gas and Ohio River were initially issued certificates of public convenience and necessity authorizing their respective sale and purchase of natural gas in an amount up to 14,153 Mcf per day. Texas Gas currently provides natural gas service to Ohio River pursuant to a service agreement dated July 23, 1982.

It is averred that Ohio River's only sales customer is Indiana Gas. Pursuant to orders issued November 15, 1967, 38 FPC 1015, and July 9, 1981, 16 FERC ¶ 62,034, Ohio River was authorized to sell natural gas to Indiana Gas. It is further averred that Ohio River was issued a part 157 blanket certificate by order issued January 8, 1986, 34 FERC ¶ 62,093. Ohio River currently provides natural gas service to Indiana Gas pursuant to a service agreement dated November 1, 1969.

Comment date: December 26, 1990, in accordance with Standard Paragrapah F at the end of this notice.

11. Transwestern Pipeline Co.

[Docket No. CP91-507-000]

December 5, 1990.

Take notice that on November 27, 1990, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-507-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove a field compressor station located at Transwestern's South Vici gathering system in Woodward County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Comment date: December 26, 1990, in accordance with Standard Paragraph F at the end of the notice.

12. Columbia Gas Transmission Corp.

[Docket No. CP91-520-000]

December 5, 1990.

Take notice that on November 28, 1990, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed an application with the Commission in Docket No. CP91-520-000 pursuant to section 7(b) of the Natural Gas Act (NGA), requesting permission and approval to abandon a natural gas transportation service for ANR Pipeline Company (ANR) and a natural gas exchange service with ANR, all as more fully set forth in the application which is open to public inspection.

Columbia states that it proposes to abandon its daily natural gas transportation service of 4,950 Mcf for ANR under its FERC Rate Schedule X-40, effective March 1, 1990. Columbia also proposes to terminate its daily transportation of the remaining 10,050 Mcf effective November 28, 1990, the expiration date of the exchange agreement between Columbia and ANR. Columbia also asserts that the proposed abandonment would not detrimentally impact its customers. No facilities are proposed to be abandon herein.

Comment date: December 26, 1990, in accordance with Standard Paragraph F at the end of this notice.

13. Florida Gas Transmission Company.

[Docket No. CP91-522-000]

December 5, 1990.

Take notice that on November 29, 1990, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-522-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Coastal Gas Marketing Company, a marketer, under

the blanket certificate issued in Docket No. RP89–50 *et al.*, pursuant to Order 509, section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT states that, pursuant to an agreement dated September 25, 1990, under its Rate Schedule ITS–1, it proposes to transport up to 15,000 MMBtu per day equivalent of natural gas. FGT indicates that it would transport 11,250 MMBtu on an average day and 5,475,000 MMBtu annually.

FGT advises that service under § 284.223(a) commenced October 1, 1990, as reported in Docket No. ST91–2316.

Comment date: January 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the reguirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to particiapte as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protests, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90–29137 Filed 12–11–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–22–000]

Algonquin Gas Transmission Co.; Informal Settlement Conference

December 7, 1990.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, January 9, 1991, at 10 a.m., at the office of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger (202) 208–2215 or David R. Cain (202) 208–0917.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–29136 Filed 12–12–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–44–000]

Carnegie Natural Gas Company; Request for Waiver of Refund Regulations

December 7, 1990.

Take notice that on November 30, 1990, Carnegie Natural Gas Company (Carnegie) pursuant to rule 212 of the Commission's Rules of Practice and Procedure, filed requests of waiver 18 CFR 154.305(i)(1)(i)(A) and section 23.9 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 (Section 23.9) so that it may credit its Account No. 191.7 (Current Deferral Subaccount) rather than Account No. 191.102 (Refund Subaccount) with $124,134.07 in refunds received by Carnegie from Texas Eastern Transmission Corporation (Texas Eastern).

Carnegie states that on October 30, 1990, Texas Eastern refunded to Carnegie $1,357,241.08 in accordance with the Stipulation and Agreement approved by the Commission in Texas Eastern Transmission Corp., Docket Nos. RP88–67. Carnegie states that the refund includes amounts attributable to services purchased by Carnegie from Texas Eastern under Texas Eastern's Rate Schedules CD–1, DCQ, FT–1 and SS–2. Carnegie further states that $694,310.34 of the $1,357,241.08 is allocable to service provided by Carnegie to its FERC-jurisdictional customers.

Carnegie proposes to credit its FERC Accounts No. 191 Refund Subaccount with $570,176.27 of the $694,310.34 allocable to the FERC jurisdictional customers. Carnegie requests limited waiver of § 154.305(i) and its tariff, so that it may credit the remaining refund $124,134.07 to its Current Deferral Subaccount.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 14, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–29135 Filed 12–12–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91-34-000]

KN Energy, Inc.; Change in FERC Gas Tariff

December 7, 1990.

Take notice that on November 28, 1990, KN Energy, Inc. (KN) filed with the Commission the following tariff sheets:

Original Volume No. 1-B Fourth Revised Sheet No. 43, with the proposed effective date of May 1, 1990

Original Volume No. 1-B, Fifth Revised Sheet No. 43, with the proposed effective date of October 1, 1990

KN states that the sole purpose of fourth revised sheet No. 43 is to reallocate the D2 billing demand volume nominations for Minnegasco, Inc. and the sole purpose of fifth revised Sheet No. 43 is to adjust the D2 billing demand volume nominations for Public Service Company of Colorado.

KN states that copies of the filing have been mailed to all jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 14, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-29134 Filed 12-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-136-010, RP89-49-012, RP90-14-002, and CP89-1582-004]

National Fuel Gas Supply Corp. Tariff Filing

December 7, 1990.

Take notice that on December 3, 1990, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume Nos. 1 and 2, and Second Revised Volume No. 1, six copies of the tariff sheets listed at appendix A hereto.

National states that these tariff sheets are filed to comply with the Commission's "Order Approving Settlement as Modified and Consolidating Proceedings" issued on November 1, 1990 in the above-captioned proceeding ("Order"),[1] and describe the terms and conditions under which National will provide "openaccess" transportation service, pursuant to the blanket certificate issued, *inter alia*, under part 284 of our Regulations (18 CFR) National further states that these tariff sheets restate its base tariff rates at Docket Nos. RP86-136-000, RP89-49-000 and RP90-14-000 to comply with the settlement rates approved in our Order.

The tariff sheets are proposed to become effective on the dates shown at appendix A hereto.

National states that a copy of this filing was posted pursuant to § 154.16 of the Commission's Regulations and copies served on the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey, and on all other parties to these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before December 14, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-29133 Filed 12-12-90; 8:45 am]

BILLING CODE 6717-01-M

[1] *National Fuel Gas Supply Corporation*, 53 FERC ¶ 61,157 (1990).

Office of Fossil Energy

[FE Docket No. 90-93-NG]

Poco Petroleum, Inc.; Application for Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed by Poco Petroleum, Inc. (Poco) to import up to 7.3 million MMBtu (approximately 7,300,000 Mcf) of natural gas annually from Canada beginning on the effective date of the authorization through October 31, 1999, and thereafter on a year-to-year basis if the underlying gas purchase contract between IGI Resources, Inc. (IGI) and Poco Petroleums Ltd. (Poco Ltd) is extended in accordance with its terms. Poco would act as agent for its parent company, Poco Ltd., in importing the gas and arranging transportation for it. The gas would be purchased by IGI from Poco Ltd. and would enter the U.S. either at the import point near Sumas, Washington (Huntington, British Columbia), or at Eastport, Idaho (Kingsgate, British Columbia). Transportation of the gas from the Sumas and Eastport import points to IGI would be via the existing facilities of Northwest Pipeline company and Pacific Gas Transmission Company, respectively.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., January 14, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Stanley Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (301) 353-3168

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Poco is a natural gas marketer acting as agent for its parent company, Poco Ltd. IGI is also a marketer and a wholly owned subsidiary of Intermountain Gas Industries, Inc., a public holding company with headquarters in Boise, Idaho. The imported gas purchased by IGI would be resold to industrial customers on a direct sales basis and to local distribution companies serving residential, commercial and industrial

customers in the states of Idaho, Washington, Oregon, Utah, Nevada, California and Colorado.

Under the gas sales contract between Poco Ltd. and IGI dated May 1, 1990, the delivered contract price for the imported gas consists of three components: A demand charge of $.50 per MMBtu for transportation of the gas to the international border; a stand-by component of $.05 per MMBtu to compensate Poco for the costs of maintaining readiness to deliver up to 20,000 MMBtu per day; and a commodity component of $1.12 per MMBtu for gas actually purchased. The stand-by and commodity components of the gas contract price are subject to annual redetermination. If IGI and Poco Ltd. cannot agree upon a redetermined price, the IGI/Poco Ltd. gas supply contract provides for binding arbitration in which the arbitrator, in making a final decision, must take into account the prices of substitutable energy sources and the price of other gas sold under similar terms and conditions which competes in the same or similar markets being served by IGI or Poco Ltd.

IGI is obligated to pay the demand charge and the negotiated stand-by component of the contract price whether any gas is taken or not. The applicant asserts that although there is no other take-or-pay or minimum bill provision in the IGI/Poco Ltd. gas supply contract, the contract does contain a take-or-release provision. Under this provision, if IGI fails to take 85 percent of the annual contract quantities for two consecutive years, Poco Ltd. may reduce the annual contract quantity to the average volumes of gas actually taken during that two-year period.

In support of its application, Poco asserts that the competitiveness of the gas is assured by the annual price renegotiation provisions, the arbitration process and by the provision for reduction of contract volumes if sales under the contract do not meet expected levels. According to the applicant, the IGI/Poco Ltd. contract strikes a balance between the need for flexibility as gas markets evolve and the need for a long-term economic gas supply arrangement.

The decision on Poco's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 6684, February 22, 1984). In the case of a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for the natural gas, and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is needed, competitive, and its natural gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Poco's application is available for inspection and copying in the office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-29189 Filed 12-12-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 87-11-NG]

Thermal Exploration, Inc.; Application To Amend Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application to amend blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on December 7, 1990, of an application filed by Thermal Exploration, Inc. (Thermal) to amend its blanket import authorization in DOE/ERA Opinion and Order No. 168 (Order 168), 1 ERA Para. 70,697, which authorized Thermal to import up to 73 Bcf of natural gas over a two year period using existing pipeline facilities. Thermal requests an expedited amendment to enable it to import from Canada by truck approximately 9,000 Mcf of liquefied natural gas (LNG) for an experimental program to determine the feasibility of using LNG to power locomotives.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., December 24, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Thermal, a natural gas marketing company, is a Washington corporation with its principal place of business in Seattle and a wholly owned subsidiary of Washington Energy Company. Thermal seeks to expand authority granted by Order 168 to permit importation by truck. Under the proposed import arrangement, Thermal will act as import agent for Burlington Northern Railroad (Burlington), who will purchase the gas from B.C. Gas. B.C. Gas is a Canadian corporation located in the Province of British Columbia, Canada. The LNG will be transported from Vancouver, British Columbia, to the delivery point at Tacoma, Washington. The point of importation will be Sumas, Washington, but the test program will be conducted by Burlington in the vicinity of Tacoma, Washington.

In submitting the application to amend its existing blanket authorization, Thermal states that a shortened comment period is required to afford it the opportunity to participate in the experimental program being conducted on or before January 1, 1991. Thermal states that the experimental test could lead to long-term environmental benefits through substitution of cleaner-burning LNG instead of diesel fuel or other gasoline products.

The decision on the application for amendment of Thermal's import authority will be made consistent with section 3 of the NGA and DOE's gas import policy. Parties that may oppose this amendment should comment in their responses on regulatory and policy considerations. Given the relatively minor proposed amendment to its existing import authorization to allow transportation by truck, the comment period on this application has been reduced to 10 days.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in this proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Thermal's application and informational filing are available for inspection and copying in the Office of Fuels Programs Docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 10, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–29297 Filed 12–12–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3869–2]

CSXT Middleton Train Derailment Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the CSXT Middleton Train Derailment Site, Middleton, Elbert County, Georgia, with CSX Transportation, Incorporation. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Carolyn McCall, Investigation

Support Assistant, Cost Recovery Section, Waste Programs Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, 404-347-5059.

Written comments may be submitted to the person above by thirty days from the date of publication.

Dated: November 19, 1990.

Donald J. Guinyard,

Acting Director, Waste Management Division.

[FR Doc. 90-29213 Filed 12-12-90; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51756; FRL 3843-9]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 109 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 90-1617, September 30, 1990.
P 91-31, January 7, 1991.
P 91-53, January 12, 1991.
P 91-81, 91-82, 91-83, 91-84, 91-85, 91-86, 91-87, January 20, 1991.
P 91-88, 91-89, 91-90, January 21, 1991.
P 91-91, 91-92, 91-93, January 22, 1991.
P 91-94, January 21, 1991.
P 91-95, 91-96, January 22, 1991.
P 91-97, 91-98, 91-99, January 23, 1991.
P 91-100, 91-101, January 26, 1991.
P 91-105, 91-106, January 27, 1991.
P 91-108, January 20, 1991.
P 91-113, 91-114, January 27, 1991.
P 91-115, January 28, 1991.
P 91-116, January 29, 1991.
P 91-117, 91-118, 91-119, 91-120, 91-121, 91-123, 91-124, 91-125, January 28, 1991.
P 91-126, 91-127, 91-128, 91-129, 91-130, 91-131, 91-132, January 29, 1991.
P 91-133, January 30, 1991.
P 91-134, 91-135, 91-136, 91-137, 91-138, 91-139, February 2, 1991.
P 91-140, 91-141, 91-142, 91-143, 91-144, 91-145, 91-146, 91-147, February 3, 1991.
P 91-148, 91-149, 91-150, February 4, 1991.
P 91-151, 91-152, 91-153, 91-154, 91-155, 91-156, 91-157, 91-158, 91-159, 91-160, 91-161, 91-162, 91-163, 91-164, 91-165, 91-166, 91-167, 91-168, 91-169, February 5, 1991.
P 91-170, 91-171, 91-172, February 6, 1991.
P 91-173, 91-174, 91-175, 91-176, 91-177, 91-178, 91-179, 91-180, 91-181, 91-182, 91-183, 91-184, February 10, 1991.
P 91-186, 91-187, 91-188, February 13, 1991.
P 91-190, February 10, 1991.
P 91-191, February 11, 1991.
P 91-192, February 10, 1991.
P 91-193, 91-194, 91-195, 91-196, February 11, 1991.
P 91-197, February 12, 1991.

Written comments by:

P 90-1617, August 31, 1990.
P 91-31, December 8, 1990.
P 91-53, December 13, 1990.
P 91-81, 91-82, 91-83, 91-84, 91-85, 91-86, 91-87, December 21, 1990.
P 91-88, 91-89, 91-90, December 22, 1990.
P 91-91, 91-92, 91-93, December 23, 1990.
P 91-94, December 22, 1990.
P 91-95, 91-96, December 23, 1990.
P 91-97, 91-98, 91-99, December 24, 1990.
P 91-100, 91-101, December 27, 1990.
P 91-105, 91-106, December 28, 1990.
P 91-108, December 21, 1990.
P 91-113, 91-114, December 28, 1990.
P 91-115, December 29, 1990.
P 91-116, December 30, 1990.
P 91-117, 91-118, 91-119, 91-120, 91-121, 91-123, 91-124, 91-125, December 29, 1990.
P 91-126, 91-127, 91-128, 91-129, 91-130, 91-131, 91-132, December 30, 1990.
P 91-133, December 31, 1990.
P 91-134, 91-135, 91-136, 91-137, 91-138, 91-139, January 3, 1991.
P 91-140, 91-141, 91-142, 91-143, 91-144, 91-145, 91-146, 91-147, January 4, 1991.
P 91-148, 91-149, 91-150, January 5, 1991.
P 91-151, 91-152, 91-153, 91-154, 91-155, 91-156, 91-157, 91-158, 91-159, 91-160, 91-161, 91-162, 91-163, 91-164, 91-165, 91-166, 91-167, 91-168, 91-169, January 6, 1991.
P 91-170, 91-171, 91-172, January 7, 1991.
P 91-173, 91-174, 91-175, 91-176, 91-177, 91-178, 91-179, 91-180, 91-181, 91-182, 91-183, 91-184, January 11, 1991.
P 91-186, 91-187, 91-188, January 14, 1991.
P 91-190, January 11, 1991.
P 91-191, January 12, 1991.
P 91-192, January 11, 1991.
P 91-193, 91-194, 91-195, 91-196, January 12, 1991.
P 91-197, January 13, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51756)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street, SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 90-1617

Manufacturer. Confidential.

Chemical. (G) Polymer latex.

Use/Production. (G) Product will be used as a coating, sealant, binder, adhesive, flame retardant, or compatibilizer. Prod. range: Confidential.

P 91-31

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Disubstituted naphthalene carboxylic acid.

Use/Production. (S) Fiber reactive dye for cellulose and nylon. Prod. range: 2,500-7,500 kg/yr.

P 91-53

Importer. Mitsubishi Gas Chemical America, Inc.

Chemical. (S) Polymerized naphthalene.

Use/Import. (S) Raw material of high density graphite. Import range: 500-5,000 kg/yr.

P 91-81

Manufacturer. Confidential.

Chemical. (G) Heterocyclic sulfide.

Use/Production. (G) Industrial oil additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 2 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Mutagenicity: negative. Skin irritation: slight species (Rabbit).

P 91-82

Manufacturer. Confidential.
Chemical. (G) Isocyanate functional urethane polymer.
Use/Production. (G) Polymer for coating plastics. Prod. range: Confidential.

P 91-83

Manufacturer. Confidential.
Chemical. (G) Polyamide.
Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-84

Manufacturer. Confidential.
Chemical. (G) Dimer modified polyester resin with aliphathic polyol and dicarboxylic acids.
Use/Production. (G) Resin for coatings (productive & decorative). Prod. range: Confidential.

P 91-85

Importer. Quest International Fragrances Company.
Chemical. (S) 3-(1-methylethyl)-bicyclo(2.2.1)hept-5-ene-2 carboxylic acid, ethyl ester; mixture of(2-exo-,3-endo) and 2-endo, 3-oxo.
Use/Import. (G) Fragrance ingredients. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5.0 ml/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Mutagenicity: negative. Skin irritation: slight species (Rabbit).

P 91-86

Manufacturer. Sherex Chemical Company, Inc.
Chemical. (G) Fatty amide.
Use/Production. (G) Asphalt additive. Prod. range: Confidential.

P 91-87

Manufacturer. Sherex Cheemical Company, Inc.
Chemical. (G) Fatty amide.
Use/Production. (G) Asphalt additive. Prod. range: Confidential.

P 91-88

Manufacturer. Confidential.
Chemical. (G) Polymeric product of epoxy reaction with organic acid and organic anhydrides.
Use/Production. (G) Polymer for use in coatings for metallic and/or polymeric substances. Prod. range: Confidential.

P 91-89

Manufacturer. Confidential.
Chemical. (G) Polyurethane polyurea.
Use/Production. (G) Dispesively applied coating. Prod. range: 35,000–100,000 kg/yr.

P 91-90

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Glycol half ester of mhhp/hhp acid.
Use/Production. (G) Reactive diluent. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (Rat). Eye irritation: strong species (Rabbit).

P 91-91

Importer. Confidential.
Chemical. (G) Alkylimidazoline derivative.
Use/Import. (S) Raw material for textile softener. Import range: 8,000–20,000 kg/yr.

P 91-92

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Polymer additive in an open nondispersive use. Prod. range: Confidential.

P 91-93

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer intermediate.
Use/Production. (G) Polymer intermediate in a contained use. Prod. range: Confidnetial.

P 91-94

Manufacturer. Confidential.
Chemical. (G) Metallic chelate complex.
Use/Production. (G) Additive to polymerics systems. Prod. range: Confidential.

P 91-95

Manufacturer. Confidential.
Chemical. (G) Metallic chelate complex.
Use/Production. (G) Additive to polymeric systems. Prod. range: Confidential.

P 91-96

Manufacturer. Bedoukian Research, Inc.
Chemical. (S) 5-Dodecen-1-ol, acetate, (12)-.
Use/Production. (S) Active ingredient in traps to monitoring traps. Prod. range: Confidential.

P 91-97

Manufacturer. Confidential.
Chemical. (G) Castor oil molified alkyd resin.
Use/Production. (G) Resin for lacquer paint. Prod. range: Confidential.

P 91-98

Importer. Confidential.
Chemical. (G) Vegetable oil modified alkyd resin.
Use/Import. (G) Resin for lacquer paint. Import range: Confidential.

P 91-99

Manufacturer. Confidential.
Chemical. (G) Styrene-acrylic resin.
Use/Production. (S) Binder for general metal coating. Prod. range: Confidential.

P 91-100

Manufacturer. Confidential.
Chemical. (G) Alpha olefin sulfonate, potassium salt.
Use/Production. (G) Used as an additive in enery production. Prod. range: Confidential.

P 91-101

Importer. Confidential.
Chemical. (G) 2-Imino-1,3-thiazin-4-one-5,6-dihydromonohydrochloride.
Use/Import. (G) Open use. Import range: Confidential.

P 91-105

Manufacturer. Confidential.
Chemical. (G) Organometallic compound.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 91-106

Manufacturer. Confidential.
Chemical. (G) Organometallic compound.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 91-108

Importer. Confidential.
Chemical. (G) Amidinothiopropionic acid hydrochloride.
Use/Import. (G) Open use. Import range: Confidential.

P 91-113

Manufacturer. Olin Corporation.
Chemical. (G) Polycarboxylated surfactant.
Use/Production. (G) Open use. Prod. range: Confidential.

P 91-114

Importer. Marubeni America Corporation.
Chemical. (G) Ethylene acrylate copolymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

P 91-115

Importer. AGFA Corporation.

Chemical. (G) Benzyl ester of an aliphatic substituted butanedioic acid.
Use/Import. (G) Binding agent used in photographic paper. Import range: Confidential.

P 91-116

Manufacturer. Minnesota Mining & Manufacturing (3M).
Chemical. (G) Biphenol salt.
Use/Production. (G) Accelerator. Prod. range: Confidential.

P 91-117

Importer. Confidential.
Chemical. (G) Acrylate derivative polymer.
Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 91-118

Importer. Huls America Inc.
Chemical. (G) Oligomeric silicic acid ester compound with an hydroxyalkylamine.
Use/Import. (S) Binder for paints. Import range: 20,000–100,000 kg/yr.

P 91-119

Manufacturer. Confidential.
Chemical. (G) Diphenylmethante prepolymer.
Use/Production. (G) Isocyante component. Prod. range: Confidential.

P 91-120

Manufacturer. Confidential.
Chemical. (G) Diphenylamine diisocyanate prepolymer.
Use/Production. (G) Isocyante component. Prod. range: Confidential.

P 91-121

Importer. Confidential.
Chemical. (G) Zinc carboxylate.
Use/Import. (G) Catalyst. Import range: Confidential.

P 91-123

Importer. Confidential.
Chemical. (G) Fatty acid amine preparation.
Use/Import. (S) Softener for textile materials. Import range: 20,000–60,000 kg/yr.

P 91-124

Importer. Confidential.
Chemical. (G) Fatty acid amide.
Use/Import. (S) Softener for textile materials. Import range: 60,000–200,000 mg/kg.
Toxicity Data. Acute oral toxicity: LD50 > 5 ml/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 91-125

Importer. Basf Corporation.
Chemical. (G) Metal salt of monoazo dye.
Use/Import. (G) Colorant. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Inhalation toxicity: LC50 15.1 mg/l species (Rat). Static acute toxicity: time EC50 24H166.09 mg/l species (Daphnia). Eye irritation: slight species (/species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea Pig).

P 91-126

Manufacturer. E.I. Du Pont & De Nemours and Co., Inc.
Chemical. (G) Copolymer.
Use/Production. (G) General purpose molding resin. Prod. range: Confidential.

P 91-127

Importer. Hoechst Celanese Corporation.
Chemical. (G) Hydroxy functional acrylic copolymer.
Use/Import. (S) Binder for paints. Import range: 10,000–30,000 kg/yr.

P 91-128

Manufacturer. Confidential.
Chemical. (G) Amylopectin, 2-(heteromonocyclic ethyl ether.
Use/Production. (G) Starch for external paper size and coating. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2.0 g/kg species (Rat). Static acute toxicity: time LC50 > 1,000 mg/l species (Fathead Minnows). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 91-129

Manufacturer. Confidential.
Chemical. (G) Amylopectin, 2-(heteromonocyclic) ethyl ether.
Use/Production. (G) Starch for external paper size and coating. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2.0 g/kg species (Rat). Static acute toxicity: time LC50 > 1,000 mg/l species (Fathead Minnows). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 91-130

Importer. Confidential.
Chemical. (G) Triazinyl reactive mono azo dye.
Use/Import. (S) Dyestuff for cellulosie fiber. Import range: Confidential.

P 91-131

Importer. Confidential.
Chemical. (G) Triazinyl reactive mono azo dye.
Use/Import. (S) Dyestuff for cellulosie fiber. Import range: Confidential.

P 91-132

Manufacturer. Henkel Corporation, Emery Group.
Chemical. (S) Pentaerythritol, complex ester with adipic acid and isopentanoic acid.
Use/Production. (S) Lubricant basestock for refrigeration compound. Prod. range: 5,000–80,000 kg/yr.

P 91-133

Manufacturer. Confidential.
Chemical. (G) Alkoxyaminoalkane.
Use/Production. (G) Petroleum products additive. Prod. range: Confidential.

P 91-134

Manufacturer. Confidential.
Chemical. (G) Arylheterarylalkylamine.
Use/Production. (G) Petroleum products additive. Prod. range: Confidential.

P 91-135

Manufacturer. Confidential.
Chemical. (G) Arylheterarylalkylamine.
Use/Production. (G) Petroleum products additive. Prod. range: Confidential.

P 91-136

Manufacturer. Confidential.
Chemical. (G) Arylhetersarylslkylsmine.
Use/Production. (G) Petroleum products additive. Prod. range: Confidential.

P 91-137

Manufacturer. Confidential.
Chemical. (G) Arylheterarylalkylamine.
Use/Production. (G) Petroleum products additive. Prod. range: Confidential.

P 91-138

Manufacturer. Confidential.
Chemical. (G) Isocyanate prepolymer solution.
Use/Production. (G) Intermediate isocyanate resin. Prod. range: 1,000–9,000 kg/yr.

P 91-139

Manufacturer. Confidential.
Chemical. (G) Urethane modified epoxy resin.
Use/Production. (G) Coating for open, nondispersive use. Prod. range: 14,000–146,000 kg/yr.

P 91-140

Manufacturer. Bedoukian Research, inc.

Chemical. (S) 7-Tetradecan-1-ol, acetate, (Z)-.
Use/Production. (S) Agricultral pheromone. Prod. range: Confidential.

P 91-141

Manufacturer. E. I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Copolyester.
Use/Production. (G) General purpose molding resin. Prod. range: Confidential.

P 91-142

Manufacturer. Confidential.
Chemical. (G) Modified ethylene polymer.
Use/Production. (S) Tie coat for coexistruded files. Prod. range: Confidential.

P 91-143

Importer. Confidential.
Chemical. (G) Methylalkylpolysiloxane modified.
Use/Import. (G) Additive, nondispersive use. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 91-144

Importer. Confidential.
Chemical. (G) Organtion compound.
Use/Import. (S) Hardening catalyst sealants and adhesives. Import range: Confidential.

P 91-145

Manufacturer. Athens Corporation.
Chemical. (S) Peroxydisulfuric acid.
Use/Production. (S) Precursor to oxidative cleanser. Prod. range: 16,000–40,000 kg/yr.

P 91-146

Manufacturer. Ciba-Geigy Corporation.
Chemical. (G) Aromatic sulfonic acid.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-147

Manufacturer. Ciba-Geigy Corporation.
Chemical. (G) Aromatic sulfonic acid calcium salt.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-148

Importer. Confidential.
Chemical. (G) Azo dyestuff.
Use/Import. (S) Ink jet inks. Import range: 670–1,005 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 91-149

Importer. Confidential.
Chemical. (G) Azo dyestuff.
Use/Import. (S) Ink jet inks. Import range: 330–494 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 91-150

Manufacturer. Confidential.
Chemical. (G) Alkyl amine salt.
Use/Production. (G) Biturmine emulsifier. Prod. range: Confidential.

P 91-151

Manufacturer. Confidential.
Chemical. (G) Alcohol, alkali metal salt.
Use/Production. (S) Alkoxylation catalyst. Prod. range: Confidential.

P 91-152

Manufacturer. Confidential.
Chemical. (G) Polyalphaolefin (PAO).
Use/Production. (G) Functional fluid. Prod. range: Confidential.

P 91-153

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Disubstituted benzoic acid salt.
Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 25,000–50,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 91-154

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Cuprate(3-),((2-(((substituted)azo)-4-substituted benzoato(5-)-, salt.
Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 25,000–50,000 kg/yr.

P 91-155

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Substituted aniline.
Use/Production. (S) Site-limited intermediate for dyestuff synthesis. Prod. range: 25,000–50,000 kg/yr.

P 91-156

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Cupate (3.),(2-(((substanced)azo)phenylmethyl)azo-4-sulfobenzoato(5-)),salt.
Use/Production. (S) Dyestuff for cellulose. Prod. range: 25,000–50,000 kg/yr.

P 91-157

Manufacturer. The Dow Chemical Company.
Chemical. (G) Phenolic alkali salt.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 91-158

Manufacturer. The Dow Chemical Company.
Chemical. (G) Halogenated aliphatic aromatic ether.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 91-159

Manufacturer. The Dow Chemical Company.
Chemical. (G) Halogenated aliphatic aromatic ether.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 91-160

Manufacturer. The Dow Chemical Company.
Chemical. (G) Halogenated aromatic polymer.
Use/Production. (G) Thermoplastic for molding articles. Prod. range: Confidential.

P 91-161

Manufacturer. The Dow Chemical Company.
Chemical. (G) Alkali salt of phenolic.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 91-162

Manufacturer. The Dow Chemical Company.
Chemical. (G) Halogenated aliphatic aromatic ether.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 91-163

Manufacturer. The Dow Chemical Comany.
Chemical. (G) Halogenated aromatic ether.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 91-164

Manufacturer. The Dow Chemical Company.
Chemical. (G) Halogenated aromatic oligomer.
Use/Production. (G) Polymer for electronic applications. Prod. range: Confidential.

P 91-165

Manufacturer. Confidential.

Chemical. (G) Saturated aromatic aliphatic polyol.

Use/Production. (S) Polyester for production of urethane paints. Prod. range: Confidential.

P 91-166

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Acrylic sulfonic-acid sodium salt.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-167

Manufacturer. Confidential.

Chemical. (G) Modified polyisocyanate.

Use/Production. (S) Encapsulation of electronic component. Prod. range: 30,000–100,000kg/yr.

P 91-168

Importer. Confidential.

Chemical. (G) Aqueous polyurethane dispersion.

Use/Import. (S) Glass fiber sizing. Import range: 91,000–228,000 kg/yr.

P 91-169

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylate metacrylate styrenatedpolymer.

Use/Production. (G) Polymer having a disperive use. Prod. range: 5,000–10,000 kg/yr.

P 91-170

Importer. AGFA Corporation.

Chemical. (G) Iron of salt a B-Alanine derivative.

Use/Import. (G) A photographic processing chemistry chemical. Import range: 5,000–15,000 kg/yr.

P 91-171

Manufacturer. E. I. Du Pont De Nemours & Co., Inc.

Chemical. (G) Substituted butadiene copolymer.

Use/Production. (G) Polymer for belts, mounts, adhesives. Prod. range: Confidential.

P 91-172

Manufacturer. Confidential.

Chemical. (G) Metal alkyl dione diaquo.

Use/Production. (G) Compounding ingredient for a mixture in dispersive use. Prod. range: Confidential.

P 91-173

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-174

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-175

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-176

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-177

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-178

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-179

Manufacturer. Confidential.

Chemical. (G) Amine functinal epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-180

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-181

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-182

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-183

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-184

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin salt.

Use/Production. (S) Coatings. Prod. range: Confidential.

P 91-186

Manufacturer. Confidential.

Chemical. (G) Substituted ethyl alkyl ester.

Use/Production. (G) Component of consumers product. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 20 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Mutagenicity: negative. Skin irritation: moderate species (Rabbit). Skin sensitization: positive species (Guinea Pig).

P 91-187

Manufacturer. Confidential.

Chemical. (G) Substituted ethyl alkyl ester.

Use/Production. (G) Component of consumers product. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 20 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Mutagenicity: negative. Skin irritation: moderate species (Rabbit). Skin sensitization: positive species (Guinea Pig).

P 91-188

Manufacturer. Confidential.

Chemical. (G) Substituted ethyl alkyl ester.

Use/Production. (G) Component of consumers product. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 20 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Mutagenicity: negative. Skin irritation: moderate species (Rabbit). Skin sensitization: positive species (Guinea Pig).

P 91-190

Importer. AGFA Corporation.

Chemical. (G) Substituted propionic acid.

Use/Import. (G) Stabilizer for photographic bleach. Import range: 1,000–5,000.

P 91-191

Manufacturer. Hercules Incorporated.

Chemical. (G) Aromatic hydrocarbon resin.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-192

Manufacturer. Hercules Incorporation.

Chemical. (G) Aromatic hydrocarbon resin.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-193

Manufacturer. Confidential.

Chemical. (G) Silanydrocarbon.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-194

Manufacturer. Confidential.

Chemical. (G) Polyurethane.

Use/Production. (G) This is a polyurethane for the plastic and textile industry. Prod. range: Confidential.

P 91-195

Manufacturer. Confidential.

Chemical. (G) Polyurethane.

Use/Production. (G) This is a polyurethane for the plastic and textile industry. Prod. range: Confidential.

P 91-196

Manufacturer. Confidential.

Chemical. (G) Alkanedioic acid, polymer with N,N-dialkylalkanamine, 3-hydroxy-2-(hydroxymethyl)-2-alkylpropanoate, alkylpropanoate, alkanediol, alkanediamine and 1,1'-methylene bispecies (4-isocycanatocyclohexane).

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-197

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Amine reacted polymer of an aliphatic isocyanate with a polyester polyol.

Use/Production. (G) A polyurethane to be used in an open, nondispersive manner. Prod. range: Confidential.

Dated: December 7, 1990.

Steve Newburg-Rinn.

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-29212, Filed 12-12-90; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3869-1]

Decision Pursuant to Section 304(l) of the Clean Water Act

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of availability of decision and response to comments.

SUMMARY: EPA, Region IX, has issued its final decision on the lists of impaired waters, point sources, and pollutants; and individual control strategies (ICSs) for the State of Arizona developed pursuant to section 304(l) for the Clean Water Act. Copies of this decision and EPA's response to comments can be obtained from the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Laura Tom by telephone at (415) 744-2006 or by mail at: Environmental Protection Agency, Region IX (W-3-2), 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION: Section 304(l) of the Clean Water Act, as amended by the Water Quality Act of 1987, requires every state to develop lists of impaired waters, identify certain point sources and amounts of pollutants causing toxic impact, and to develop individual control strategies for each point source.

On 31 July 1989, EPA issued a decision on the lists of waters, point sources and amounts of pollutants, and on ICSs submitted by the State of Arizona. At that time, EPA solicited comments from the public on its decision. EPA, pursuant to section 304(l)(1)(3), also solicited petitions from the public to make additions to the waters already listed under section 304(l)(1). Notice of these actions appeared in the **Federal Register** on 22 August 1989 (54 FR 34816).

The public comment and petition period was originally scheduled to close on 29 December 1989. EPA, however, extended the public comment and petition period to close on 1 February 1990. Notice of this action appeared in the **Federal Register** on 24 January 1990 (55 FR 2407).

EPA received 6 comments and petitions on the 304(l) lists and ICSs for Arizona during the public comment and petition period. EPA has prepared a written response to these comments and petitions.

The administrative record containing EPA's decision, response to comments, and supporting documentation on the lists and ICSs for Arizona is on file and may be inspected at the EPA, Region IX, office between the hours of 9 a.m. and 5 p.m., Monday through Friday, except holidays. To make arrangements to examine the record, or to obtain copies of the decision and response to comments, contact the person named above.

Dated: December 4, 1990.

Keith Takata,

Acting Director, Water Management Division, U.S. EPA Region IX.

[FR Doc. 90-29214 Filed 12-12-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

December 6, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: None.

Title: Amendment of parts 21, 43, 74, 78 and 94 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz *Bands Affecting:* Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service and Cable Television Relay Service.

Action: New collection.

Respondents: Individuals or households, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion and annually.

Estimated Annual Burden: 17,510 responses; 18.496 hours average burden per response; 323,866 hours total annual burden.

Needs and Uses: In fulfilling its obligation under the Communications Act of 1934, as amended, the Commission collects information from applicants and licensees for Multichannel Multipoint Distribution Service stations to determine eligibility and to ensure compliance with this Act and the FCC's regulations. The information collected pursuant to the attached Report and

Order will be used by the Commission to determine whether the applicant is qualified legally, technically and financially to be licensed to use microwave radio frequencies. The annual reporting requirement is used for detecting anticompetitive practices and can assist in monitoring the development of wireless cable.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-29257 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Radio Associates, Inc., et al

1. The Commission has before it the following groups of mutually exclusive applications for three new FM stations:

Applicant, City and state	File No.	MM Docket No.
I		
A. Radio Associates, Inc.; Brownsburg, IN.	BPH-880720MQ	90-515
B. DOXA, Inc.; Brownsburg, IN.	BPED-880722MB	
C. Anthony J. Bove, Jr.; Brownsburg, IN.	BPH-880722MJ	
D. Hoosier Aurora Broadcasting Co.; Brownsburg, IN.	BPH-880722ML	
E. Helen Sparks Quinn; Brownsburg, IN.	BPH-880722MP	
F. Brownsburg Broadcasting Corporation; Brownsburg, IN.	BPH-880722MQ	
G. The Moody Bible Institute of Chicago; Brownsburg, IN.	BPED-880725MB	
H. Bulldog Broadcasting, Inc.; Brownsburg, IN.	BPH-880725MD	
I. Sharpe Communications Limited Partnership; Brownsburg, IN.	BPH-880725ME	
J. Pamela R. Jones; Brownsburg, IN.	BPH-880725MF	

Issue Heading and Applicants

1. Financial Qualification, A
2. Air Hazard, A, E, J
3. Comparative, A-K
4. Ultimate, A-K

Applicant, City and state	File No.	MM Docket No.
II		
A. Gerald Penovich; Tice, Florida.	BPH-880519MA	90-505
B. Anderson Broadcasting Co., Ltd.; Tice, Florida.	BPH-880518MK	
C. Paradise Communications Limited Partnership; Tice, Florida.	BPH-880551MC	
D. Prize Broadcasting, Inc.; Tice, Florida.	BPH-880519MM	
E. Charisma Radio Partners; Tice, Florida.	BPH-880519MN	
F. Minority Broadcasting Development, Inc.; Tice, Florida.	BPH-880519MO	
G. Birdsong Broadcasting; Tice, Florida.	BPH-880519MP	
H. Palm Broadcasting Limited Partnership; Tice, Florida.	BPH-880519MW	
I. Bilkis J. Lezcano; Tice, Florida.	BPH-880519NB	
J. Linda Giles; Tice, Florida.	BPH-880519NC	
K. Press Broadcasting Company; Tice, Florida.	BPH-880519NK	
L. Female Frequency; Tice, Florida.	BPH-880519NM	
M. Pam Gooderham and Charlene Swartley, General Partners, d/b/a Gooderham/Swartley Tice Limited; Tice, Florida.	BPH-880519NP	
N. TiceComm, Inc.; Tice, Florida.	BPH-880519NY	

Issue Heading and Applicants

1. Financial Qualifications, G
2. See Appendix, C
3. See Appendix, C
4. See Appendix, C
5. See Appendix, F
6. Air Hazard, D
7. Comparative, A11
8. Ultimate, A11

Applicant, City and state	File No.	MM Docket No.
III		
A. Jewell Schaeffer Broadcasting Co.; Manchester, OH.	BPH-890223ME	90-514
B. George C. Helton and Gerald E. Davis d/b/a Manchester Broadcasting Company; Manchester, OH.	BPH-890223MG	

Issue Heading and Applicants

1. Comparative, A, B

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division.

Appendix (Tice, Florida)

2. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of C (Paradise).

3. To determine whether C's (Paradise) organizational structure is a sham.

4. To determine, from the evidence adduced pursuant to issues 1 and 2 above, whether C (Paradise) possesses the basic qualifications to be a licensee of the facilities sought herein.

5. To determine (a) whether 105.3 Ltd.'s principal, Darie D. Hamilton, withheld information and answered questions untruthfully during discovery in the Solana, Florida proceeding (MM Docket No. 464(b)), whether 105.3 Ltd. avoided compliance with the reporting requirements, and (c) from the evidenced adduced pursuant to Issues 5(a) and 5(b) above, whether Minority possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90-29258 Filed 12-12-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

SeaEscape Cruises Limited, 1080 Port Blvd., Miami, FL 33132

Vessel: Scandinavian Song

Dated: December 7, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-29160 Filed 12-12-90; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Screening Tests for Animal Drug Residues in Raw Milk

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is asking for information on commercially available screening tests to detect animal drug residues in raw milk. The agency is also announcing its intention to conduct a limited evaluation of such tests.

DATES: Information and written comments by February 11, 1991.

ADDRESSES: Information and written comments to the Office of Science (HFV-500), Center for Veterinary Medicine, Food and Drug Administration, Rm. 8-89, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Norris E. Alderson, Center for Veterinary Medicine (HFV-500), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6510.

SUPPLEMENTARY INFORMATION: Recently, FDA released the results of analysis of 70 retail milk samples from 14 U.S. cities. The analysis revealed the presence of low levels of drug residues in some of the milk samples. As a result of these findings, organizations representing dairy farmers, milk cooperatives, veterinarians, and state milk officials have requested that the agency encourage the development and evaluation of reliable screening tests that can be used to expand current residue monitoring programs for milk and to support on-farm milk testing. This **Federal Register** notice solicits information concerning methods of analysis that could be used to rapidly screen raw milk for animal drug residues and announces that the agency will conduct a limited evaluation of such tests.

Rapid screening tests are defined here as technically uncomplicated analytical methods that can respond in a relatively short time to the presence of drug residues above a specified level in a specific matrix. The types of tests of interest include, but are not limited to, ligand binding tests. Rapid screening tests can provide for inexpensive and timely testing of a large number of samples rather than using longer and more technically complex chemical methods. However, screening tests are designed to provide a presumptive indication that a drug residue may be present in the sample. Further analysis usually would be required to confirm a positive screening test result.

The agency is requesting manufacturers of screening tests to furnish information concerning scientific principles of the test and the stability of test components, descriptions of packaging, copies of labeling, instructions for using and operating the tests, and any available data demonstrating the performance characteristics. Such information and written comments should be submitted to the contact person above.

For those screening tests for which manufacturers provide the requested information, the agency intends to conduct a limited evaluation of the performance of these tests for animal drug residues in raw milk. FDA will not approve or certify any screening tests based on the results of this limited evaluation. However, the results will be available for public inspection. It is anticipated that the results will provide useful information for potential users. Future evaluations will be conducted for a specific drug based on agency assessment of needs of milk monitoring programs.

The milk samples used in this evaluation will consist of control raw milk, drug fortified control raw milk, and raw milk containing incurred drug residues in samples taken from animals dosed with the test drug. All test samples will be initially analyzed using a quantitative analytical method selected by FDA. The results of these analyses will serve as standards against which the results of the screening assays will be evaluated. The screening tests will be used to analyze the raw milk samples according to the manufacturer's labeling instructions.

The agency is aware that both approved and unapproved drugs are used in lactating dairy cattle. For the approved drugs, title 21 of the Code of Federal Regulations, part 556 (21 CFR part 556) provides a tolerance for drug residues. For gentamicin, tetracycline, chlortetracycline, and oxytetracycline, which are approved for use in certain food-producing animals but not in lactating dairy cows, the agency has estimated the desired limits of detection based on available safety information. For certain unapproved sulfonamides and for chloramphenicol, also unapproved in cows, the agency has estimated the desired limits of detection based on the lowest level that can be accurately and reproducibly detected and confirmed.

The first group of animal drugs selected for evaluation are the sulfonamide drugs. The desired limit of detection for a screening test for sulfadimethoxine residues in milk is 10 parts per billion (ppb), the tolerance specified in 21 CFR 556.640. A tolerance of 10 ppb for residues of sulfabromomethazine in milk is specified in 21 CFR 556.620. A zero tolerance for residues of sulfaethoxypyridazine is specified in 21 CFR 556.650. However, these sulfonamides are no longer marketed. No other sulfonamides are approved for use in lactating dairy cattle. The desired limit of detection of tests for these sulfonamides is 5 to 10 ppb. This is the current level that can be accurately and reproducibly detected.

Drugs under consideration for future study and the desired limits of detection are gentamicin, 30 ppb; tetracycline, 80 ppb; chlortetracycline, 30 ppb; and oxytetracycline, 30 ppb. Chloramphenicol is also of interest but is not approved for use in any food-producing animal. The desired limit of detection of chloramphenicol by screening tests should be at a level that can be confirmed by appropriate analytical methods, about 5 ppb. Additional drugs may be added in the future.

FDA regards screening tests for animal drugs to be useful tools for excluding the presence of violative residues in milk. However, since positive screening test results usually determine the disposition of milk by the farmer or dairy and may lead to regulatory actions, FDA considers the capability to confirm positive screening test results to be an important part of the effective use of screening tests for milk monitoring. The need for that capability should not be construed to mean that the manufacturer of a screening test is required to provide a confirmatory test. The agency does want to imply that any analytical method, including a screening test, that cannot be verified is of limited use in decisionmaking.

Dated: December 5, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-29169 Filed 12-12-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 76D-0394]

Revised Drug Stability Guidelines; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the "Drug Stability Guidelines," fourth revision, prepared by the Center for Veterinary Medicine (CVM). This guideline may be used as an aid in designing and conducting studies to meet stability requirements for the manufacture of veterinary finished dosage form products (pharmaceutical and medicated feed) as submitted in new animal drug applications (NADA's) and abbreviated NADA's (ANADA's) and manufactured in conformance with the corresponding current good manufacturing practice (CGMP) regulations (21 CFR parts 211, 225, and 226).

DATES: Comments may be submitted at any time.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests for copies of the fourth revision of "Drug Stability Guidelines," to the Division of Chemistry (HFV-142), Center for Veterinary Medicine, Food and Drug Administration, Rm. 6B-03, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4500.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of the "Drug Stability Guidelines," fourth revision, prepared by CVM. A notice of availability of the first edition of the Drug Stability Guideline was announced in the **Federal Register** of November 2, 1976 (41 FR 48150) (Docket No. 76D-0394). This publication announces the availability of the fourth edition of the guideline.

The guideline applies to finished dosage form drugs for veterinary purposes and to drugs used in medicated feed products. The guideline may be used as an aid in designing and conducting stability studies to meet the requirements of 21 CFR 514.1(b)(5)(x) and the appropriate CGMP regulations for veterinary products (21 CFR 211.166 and 226.58). Section 514.1 specifies the proper format and the information required for NADA approval under section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)).

The guideline, as revised, includes the following changes:

1. Editorial revisions throughout the document.
2. Revisions in medicated feed product testing.
3. Provisions for product stress testing.
4. A new section on drug substances stability testing.
5. An alphabetical index listing the specific sections.

These changes incorporate comments received in response to the publication of the notice of availability of the third edition of the guideline published in the **Federal Register** of December 5, 1988 (53 FR 48980). The comments, CVM's responses, and previous editions of the guideline are available at the Dockets Management Branch (address above).

Interested persons may, at any time, submit written comments on the revised guideline to the Dockets Management Branch. Such comments will be considered in determining if further revisions are warranted. Respondents should submit two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. Comments and all related materials may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 5, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-29167 Filed 12-12-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90D-0112]

Draft Guideline on the Application of the Current Medical Device GMP's to Computerized Devices and Manufacturing Processes—Medical Device GMP Guidance for FDA Investigators; Availability; Request for Public Comments

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline on current good manufacturing practices (CGMP's) entitled "Application of the Medical Device GMP's to Computerized Devices and Manufacturing Processess—Medical Device GMP Guidance for FDA Investigators" and requesting public comment. The draft guideline is intended to assist FDA investigators in applying the CGMP regulations to manufacturers using computerized production processes and manufacturers of computer products that are medical devices or components of medical devices. These regulations at 21 CFR part 820 are intended to assure that devices will be safe and effective.

DATES: Comments by March 13, 1991.

ADDRESSES: Submit written requests for single copies of the draft guideline "Application of the Medical Device GMP's to Computerized Devices and Manufacturing Processes—Medical Device GMP Guidance for FDA Investigators" to the Division of Small Manufacturers Assistance (HFZ-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6597 (toll-free outside MD, 800-638-2041). Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guideline and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Fred Hooten, Center for Devices and Radiological Health (HFZ-330), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1131.

SUPPLEMENTARY INFORMATION: FDA, through the Center for Devices and Radiological Health (CDRH), develops and carries out a national program to ensure the safety and effectiveness of medical devices. Under authority of the Federal Food, Drug, and Cosmetic Act (the act), including section 520(f) (21 U.S.C. 360j(f)), the agency has promulgated the CGMP regulations at 21 CFR part 820. Section 520(f) of the act and the CGMP regulations require that the methods used in, and the facilities and the controls used for, the manufacture, packaging, storage, and installation of a device conform to CGMP, as prescribed in such regulations, to assure that the device will be safe and effective and otherwise in compliance with the act.

Under 21 CFR 10.90(b), FDA is announcing the availability of draft FDA investigator guidance entitled "Application of the Medical Device GMP's to Computerized Devices and Manufacturing Processes—Medical Device GMP Guidance for FDA Investigators." The document is designed to illustrate how the CGMP

regulations apply to software and hardware intended to control an automated device manufacturing process, including automated quality assurance and automated recordkeeping. The draft also applies to the manufacture of computer products intended for a medical purpose, as defined in section 201(h) (21 U.S.C. 321(h)). However, the draft does not contain information on how to validate computer software.

The CGMP regulations are written in general terms in order that they may apply to the broad diversity of medical devices and manufacturing processes found in the medical device industry. Because of this, FDA investigators sometimes benefit from guidance in applying the CGMP regulations to certain segments of the industry. Two areas in which investigators will find such guidance to be of assistance are to manufacturers of automated devices and manufacturers who utilize automated manufacturing systems.

This document is intended to assist investigators in properly interpreting and applying the CGMP regulations to these areas. However, investigators should understand that while the procedures and controls described in this document describe those that generally are acceptable to FDA, they may not be the only procedures and controls acceptable to FDA. Manufacturers are free to use other approaches as long as they can provide assurance that they are adequate in meeting the applicable CGMP requirements in accordance with the CGMP regulations.

This document applies to manufacturers who utilize automated manufacturing processes, automated quality assurance, automated recordkeeping, and who manufacture medical devices that are driven or controlled by software.

Interested persons may, on or before March 13, 1991, submit written comments to the Dockets Management Branch (address above) on this draft guideline. Comments will be considered in determining if changes to the draft guidelines are warranted.

Dated: December 5, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-29168 Filed 12-12-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0241]

1990 Revision of the National Shellfish Sanitation Program Manual of Operations, Part I "Sanitation of Shellfish Growing Areas" and Part II "Sanitation of the Harvesting, Processing, and Distribution of Shellfish"; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the 1990 revision of the National Shellfish Sanitation Program (NSSP) Manual of Operations, part I, "Sanitation of Shellfish Growing Areas" and part II, "Sanitation of the Harvesting, Processing, and Distribution of Shellfish." This project was initiated in cooperation with the Interstate Shellfish Sanitation Conference (ISSC) to help assure that only safe and sanitary shellfish are offered for sale in interstate commerce.

ADDRESSES: Submit written requests for single copies of the manual (free of charge) to the Food and Drug Administration, Shellfish Sanitation Branch (HFF-344), 200 C St. SW., Washington, DC 20204. Send two self-addressed adhesive mailing labels to assist that office in processing your requests. The Manual is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David M. Dressel, Center for Food Safety and Applied Nutrition (HFF-344), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-485-0149.

SUPPLEMENTARY INFORMATION: FDA is responsible for the Federal administration of the NSSP, which is a voluntary program involving State shellfish control agencies, the shellfish industry, FDA, and other Federal agencies. Five foreign countries also actively participate in the NSSP through international bilateral agreements.

The NSSP is concerned with the sanitary control of fresh and frozen molluscan shellfish (oysters, clams, and mussels) offered for sale in interstate commerce. The program has been in existence since 1925. In the interest of assuring uniform administrative and technical controls, the NSSP has developed and maintained recommended shellfish control practices. These control practices have been published in the form of a Manual of Operations, parts I and II.

In 1982, interested State officials and members of the shellfish industry formed the ISSC, the purpose of which is to provide a formal structure wherein State regulatory authorities can establish updated guidelines for improving shellfish sanitation and safety. The ISSC has established uniform procedures for the development and adoption of new guidelines. Those persons interested in obtaining additional information about the ISSC should contact Kenneth Moore, Chairman, Interstate Shellfish Sanitation Conference, c/o South Carolina Department of Health and Environmental Control, 2600 Bull Street., Columbia, SC 29202.

FDA and the ISSC entered into a memorandum of understanding (MOU) in March 1984 (49 FR 12751, March 30, 1984). This agreement states, among other things, that FDA will provide technical assistance to the ISSC, including participating in the cooperative efforts of the Conference, to develop or revise program criteria and guidelines.

Based on the MOU, FDA developed draft revisions of the NSSP Manual of Operations, parts I and II, in cooperation with the ISSC. FDA announced the availability of the 1986 revision of part I on June 5, 1987 (52 FR 21375). The initial working draft of part II was made available for comment on September 11, 1985 (50 FR 37055), with a revised second draft being made available for further comment on July 11, 1986 (51 FR 25261). Based on the comments received, and in consideration of the comments and views on parts I and II expressed by State regulatory officials, industry representatives, and other interested parties at the ISSC 1987 and 1988 annual meetings in Austin, TX, and Denver, CO, respectively, FDA announced the availability of the 1988 revision of the completed Manual of Operations on February 17, 1989 (54 FR 7281). FDA announced the availability of the 1989 revision on April 25, 1990 (55 FR 17503).

Continuing with this successful alliance, FDA and the ISSC now announce the availability of the 1990 revision of the NSSP Manual of Operations, part I, "Sanitation of Shellfish Growing Areas" and part II, "Sanitation of the Harvesting, Processing, and Distribution of Shellfish." The 1990 revision contains changes and improvements to the NSSP considered and passed at the 1990 ISSC meeting held in Costa Mesa, CA.

The revised manual includes: (1) Newly adopted temperature

requirements for shellfish and shellfish products shipped in interstate commerce; and (2) procedures for the closure of shellfish growing waters following an outbreak of foodborne illness related to shellfish. Major topics include: general administrative and laboratory procedures; growing area surveys and classification; contingency plans for the control of marine biotoxins; and the accepted sanitary procedures for the harvesting, handling, shucking, and packing of shellfish.

Dated: December 5, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-29166 Filed 12-12-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[OPA-2-N]

Medicare and Medicaid Programs, Freedom of Information (FOI) Guidelines

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: In accordance with the settlement agreement reached in the case of *Home Health Line* v. *HCFA*, District Court of District of Columbia, Civil Action (D.D.C., C.A.) No. 90-1006 LFO, HCFA is publishing in the **Federal Register** a notice describing and clarifying HCFA's guidelines concerning expedited processing of Freedom of Information (FOI) requests.

FOR FURTHER INFORMATION CONTACT: Rosario Cirrincione, (301) 966-5352.

SUPPLEMENTARY INFORMATION: As part of the settlement agreement in the case of *Home Health Line* v. *HCFA*, District Court of District of Columbia, Civil Action (D.D.C., C.A.) No. 90-1006 LFO, HCFA is required to publish in the **Federal Register** by December 13, 1990 a notice describing and clarifying HCFA's guidelines concerning expedited processing of Freedom of Information (FOI) requests, and to disseminate the notice to all relevant agency personnel.

The text of the notice, as set forth in the settlement agreement follows:

The Health Care Financing Administration ("HCFA") states, for the benefit of the public, its guidelines with respect to the order for processing requests under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, where the records sought are all HCFA records.

The HCFA Office of Public Affairs ("OPA") is the HCFA central office responsible for administering the FOIA. The authority for granting or denying FOIA requests for HCFA records is vested in the Director of OPA and his or her designee. When OPA receives a FOIA request for HCFA records, it refers that request to the unit(s) within HCFA that is most likely to have the requested records. When such a request is received by another unit within HCFA, that unit is to forward the request to OPA, except to the extent that the unit has, or obtains, authority to release the requested records directly to the requester, as discussed in the following two paragraphs.

Because of the large volume of FOIA requests that HCFA receives and processes annually, OPA has established a list of certain categories of documents that may be directly released to requesters by program offices (including HCFA central and regional office components and Medicare contractors). The documents on this list are requested frequently, and OPA has previously reviewed them and has determined that they do not need to be forwarded to OPA for further review.

When documents gathered in response to a request are determined to be "directly releasable" documents, the appropriate program office is authorized to release those items directly to the requester; it then forwards any remaining documents to OPA for processing in the normal order. In some cases, where a document seems clearly non-exempt but is not directly releasable, the program office may consult with OPA; if OPA determines that the document should be released, it may instruct the program office to release it rather than forward it to OPA. OPA reviews the records forwarded to it and makes the determination whether to release or deny, and it sends out the letter informing the requester of the decision and, when the request is denied in full or in part, of the requester's right to an administrative appeal.

For those requests that are processed by OPA, it processes them in the order in which it receives the responsive documents from the program office. OPA may make exceptions to this first-in/first-out practice, and expedite the processing of a request, on a case-by-case basis, where certain actors exist. These factors fall into two categories: "administrative circumstances" and "requester circumstances."

Administrative Circumstances

There are certain administrative circumstances in which HCFA generally expedites the processing of a request. Typically, the reason is that the request can be processed (or partly processed) easily and quickly, so that there is no need to make the requester wait. These circumstances include the following:

(1) The records located in response to the request include records that have been designated as directly releasable documents. If the program office erroneously forwards directly releasable documents to OPA, then OPA may similarly expedite the processing of the directly releasable documents and leave any remaining documents for processing in the normal order. In making requests for records, requesters may identify a category of records of the same type and ask OPA to designate that category of records as directly releasable. Whether to so designate the category of records is in HCFA's sole discretion.

(2) The records located in response to the request include records that do not require review against the FOIA exemptions even though they have not been designated as directly releasable documents. Where OPA's initial examination of the records located in response to a request suggests that the records are all clearly not exempt under the FOIA, even though they are not designated for direct release, it may expedite the processing of the request. However, when only some of the documents gathered in response to a request are releasable without review, OPA will not necessarily expedite the processing because the mixed nature of the documents would still require a review to segregate them.

(3) OPA recognizes that all of the records located in response to the request are clearly protectible. There are certain categories of records that OPA, or the Department of Health and Human Services ("HHS") Office of the Assistant Secretary for Public Affairs, has determined will always be withheld in response to a FOIA request. When OPA receives a request limited to such records, it prepares an expedited response because staff review of the records is not required.

(4) The request is not processed under FOIA. Where a request would require creation of a record and does not seek existing records, or where the request asks for materials that are prepared specifically for public distribution by an HHS program office, the request is not processed under the FOIA, and OPA prepares a response in an expeditious manner.

(5) The request seeks records of other HHS components as well as those of HCFA. Where a request seeks records of other components in addition to HCFA records, the HHS FOI Officer is the official with the authority to determine whether to disclose or deny records, and

with the overall responsibility for processing the request. When OPA receives such a request, either directly from the requester or on referral from the HHS FOI Officer, OPA performs its portion of the processing expeditiously, and submits to that official its recommendations concerning disclosure.

(6) OPA recognizes that all of the records have previously been the subject of review and determination by OPA. Where the file on the previous request is available, review of the documents may not be necessary.

(7) No documents are located in response to the request.

OPA may expedite processing of a request for similar administrative circumstances on a case-by-case basis.

Requester Circumstances

Aside from the administrative circumstances as described above, HCFA follows its first-in/first-out practice for processing requests except where the requester demonstrates exceptional need or urgency.

There are three categories of requester circumstances which HCFA has determined frequently satisfy this criterion, and in these circumstances, it ordinarily expedites the processing of the request. The first is where disclosure of the records is necessary because there is a substantial showing of a danger to life, health, or safety. The second is where the requester needs the specific records in question to meet a deadline in litigation, either in a court or before an administrative tribunal. The third is where the requester needs the records in order to meet a deadline imposed by a governmental agency for commenting on a proposed regulation.

In any situation that does not fall within these three categories but where the requester believes that there is an exceptional need or urgency justifying expedited processing, the requester may ask for expedited processing and explain in writing how the circumstances constitute exceptional need or urgency. OPA will consider such expedited processing requests from any FOIA requester, including, but not limited to, representatives of the news media. OPA will consider such requests on a case-by-case basis, and will determine, and inform the requester, whether the request will be expedited. OPA can not determine or prescribe in advance which factors will be relevant in showing exceptional need or urgency in the case of a request by a representative of the news media, or in the case of a request by any other category of requester. OPA anticipates that in the case of requests by representatives of the news media, it will frequently consider any showing by the requester as to the nature and degree of the loss that will be suffered by the consumers of the news medium if processing is not expedited, and any such showing as to the degree of reliance by the consumers of the news medium. Representatives of the news media who request expedited processing may address these factors, where appropriate, and any other factors that may be appropriate. OPA will not treat any category of requester as automatically or presumptively entitled to such expedited processing.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; No. 93.774, Medicare—Supplemental Medical Insurance; and No. 93.778, Medical Assistance Program)

Dated: December 10, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90-29297 Filed 12-12-90; 8:45 am]

BILLING CODE 4120-01-M

Indian Health Service

Tribal Management Grant Program for American Indians/Alaska Natives: Technical Assistance Workshop Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Notice of technical assistance workshops for prospective IHS grantees.

SUMMARY: The Indian Health Service (IHS) announces that technical assistance workshops for the Tribal Management Grant Program to include grant proposal writing will be conducted for American Indian/Alaska Native Tribal Organizations as defined by Public Law 93-638, as amended.

DATES: Technical assistance workshops are scheduled for January 15-17, 1991, in Albuquerque, New Mexico and Sioux Falls, South Dakota; and January 29-31, 1991, in San Francisco, California and Billings, Montana.

FOR FURTHER REGISTRATION INFORMATION CONTACT: Beulah Bowman, Director, Division of Community Services, Office of Tribal Activities, room 6A-05, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6840; M. Kay Carpentier, Grants Management Officer, Division of Acquisition and Grants Operations, suite 6-03, 2101 E. Jefferson, Maxima Building, Rockville, Maryland 20852, (301) 443-5204. (These are not Toll-Free Numbers)

SUPPLEMENTARY INFORMATION: The Office of Tribal Activities, Division of Community Services; and Division of Acquisition and Grants Operations, Grants Management Branch will provide potential applicants an opportunity to receive technical assistance for Tribal Management including participation in grant writing workshops to assist applicants in developing and submitting competitive proposals. The purpose is to: (a) Establish communication between the IHS and the applicants, (b) determine the applicants eligibility, and (c) to provide technical assistance to increase the ability of an applicant to successfully compete. Applicants will prepare preapplications for constructive review and feedback during the workshop.

Dated: December 7, 1990.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 90-29250 Filed 12-12-90; 8:45 am]

BILLING CODE 4160-16-M

Social Security Administration

Agreement on Social Security Between the United States and the Netherlands; Entry Into Force

The Commissioner of Social Security gives notice that an agreement coordinating the United States (U.S.) and the Netherlands social security programs entered into force on November 1, 1990. The agreement with the Netherlands, which was signed on December 8, 1987, is similar to U.S. social security agreements already in force with 11 other countries—Belgium, Canada, France, Germany, Italy, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act.

Like the other agreements, the U.S.-Netherlands agreement eliminates dual social security coverage—the situation that exists when a worker from one country works in the other country and is covered under the social security systems of both countries for the same work. When dual coverage occurs, the worker or the worker's employer or both may be required to pay social security contributions to the two countries simultaneously. Under the U.S.-Netherlands agreement, a worker who is sent by an employer in the United States to work in the Netherlands for 5 years or less remains covered only by the U.S. system. The agreement includes additional rules that eliminate dual U.S. and Netherlands coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of benefit rights because they have divided

their careers between the two countries. Under the agreement, workers may qualify for partial U.S. or Netherlands benefits based on combined (totalized) work credits from both countries.

Persons who wish to obtain copies of the agreement or want more information about its provisions may write to the Social Security Administration, Office of International Policy, P.O. Box 17741, Baltimore, MD 21235.

Dated: December 5, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 90-29130 Filed 12-12-90; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-3035; FR-2729-N-02]

Funding Awards Under the Supportive Housing Demonstration Program and Transitional Housing Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: Under section 102(a)(4)(C) of the Department Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Supportive Housing Demonstration Program and the Transitional Housing Program. This announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Mr. James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-4300; for hearing and speech-impaired persons, (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Supportive Housing Demonstration Program (SHDP) was authorized by the Stewart B. McKinney Homeless Assistance Act of 1987. The purpose of the demonstration is to develop innovative approaches to providing housing and supportive services to the homeless, especially to deinstitutionalized homeless individuals, homeless families with children, homeless individuals with mental disabilities and other handicapped homeless persons. The demonstration consists of two programs: transitional housing, and permanent housing for the handicapped homeless.

A. Permanent Housing for the Handicapped Homeless

On April 2, 1990, HUD published an announcement in the **Federal Register** (55 FR 12312) that notified the public of the availability of $15 million for the permanent housing for the handicapped homeless program. The funds are available for assistance in the form of: (1) Advances for acquisition and substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures; (2) advances for new construction (under limited circumstances); (3) grants for moderate rehabilitation of existing structures; and (4) grants for annual operating costs and supportive services (up to two years).

The application deadline was July 2, 1990. A total of $15.3 million was awarded to applicants for 104 projects in 21 states.

Under section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names, addresses, and amounts of the awards made for the permanent housing for the handicapped homeless program, as follows:

Alaska:

Mat-Su Community Counseling Center Anchorage, Alaska $127,949.00
Central Peninsula Counseling Service Kenai, Alaska $150,270.00
Association for Retarded Citizens of Anchorage, Alaska $279,300.00

Contact: Ms. Myra M. Munson, Commissioner of Health and Social Services, Pouch H-01, Juneau, Alaska 99811; Telephone (907) 456-3030

California:

California Living Homes, Inc., Norwalk, California $49,377.00
Interim, Inc., Salinas, California $175,130.00
Bay Area Community Services, Inc., Pleasanton, California $309,750.00
Housing for Independent People, Inc., Gilroy, California $332,167.00
Educational Resource and Services Center, Inc., Culver City, California $352,648.00
Baker Places, Inc., San Francisco, California $390,000.00

Contact: Ms. Maureen Higgins, Director, P.O. Box 952054, Sacramento, California 94252-2054; Telephone (916) 445-4775

Georgia:

Hall Family Initiative Residences, Inc., Cumming, Georgia $262,275.00
Mental Health Association of Georgia, Columbus, Georgia $482,492.00

Contact: Mr. Henry M. Huckaby, Executive Director, 60 Executive Parkway South, Suite 250; Atlanta, Georgia 30339; Telephone (404) 320-4840

Hawaii:

Steadfast Housing Development Corporation, Maui, Hawaii $372,960.00

Contact: Mr. Joseph K. Conant, Executive Director, Seven Waterfront Plaza, No. 300; Honolulu, Hawaii 96813

Illinois:

Belleville Mental Health, Inc., Belleville, Illinois $197,947.00
Pioneer Center of Muttenry County, McHenry, Illinois $307,223.00

Contact: Mr. Bobby J. Wilkerson, Acting Deputy Director, 401 William G. Stratton Building, Springfield, Illinois 62765

Kansas:

Bert Nash Community Mental Health Center, Inc., Kansas $106,624.00
Class, Ltd., Columbus, Kansas $171,480.00

Contact: Mr. D.W. Zimmerman, Acting Secretary, 400 S.W. 8th Street, Suite 500, Topeka, Kansas 66603-3957

Kentucky:

Kentucky Housing Corporation, Louisville, Kentucky $20,633.00
Teresa Hatton Foundation, Frankfort, Kentucky $27,420.00
Schizophrenia Foundation, Kentucky, Inc., Louisville, Kentucky $37,411.00
Short-Long Term Residential Care, Inc., Covington, Kentucky $74,186.00

Contact: Mr. John G. Martinez, Executive Director, 1231 Louisville Road, Frankfort, Kentucky 40601; Telephone (502) 564-7630

Massachusetts:

Comprehensive Mental Health System, Inc., North Dartmouth, Massachusetts $52,501.00
Comprehensive Mental Health Systems, Inc., New Bedford, Massachusetts $180,013.00
Suffolk Mental Health Association, Inc., Chelsea, Massachusetts $249,273.00
Cambridge Housing Authority, Cambridge, Massachusetts $335,000.00
Vinfren Corporation, Brookline, Massachusetts $407,407.00

Contact: Ms. Marcia I. Lamb, Assistant Secretary for Housing, 100 Cambridge Street, 18th Floor, Boston, Massachusetts 02202; Telephone (617) 727-7130

Maine:

Shalom House, Inc., Portland, Maine $182,365.00

Contact: Ms. Lynn Wachtel, Commissioner, 219 Capital Street, Augusta, Maine 04333; Telephone (207) 289-2656

Michigan:

David Reece Fund, Midland, Michigan $34,235.00
Saginaw Housing Commission, Saginaw, Michigan $78,742.00
Association for Retarded Citizens, Owosso, Michigan $115,649.00
Synod Residential Services, Monroe,

Michigan..$123,622.00
Community Homes, Inc., Southfield, Michigan..$134,720.00

Contact: Mr. Terrence R. Duvernay, Executive Director, 401 S. Washington, Square, Lansing, Michigan 48909; Telephone 373–6022

Missouri:

Comprehensive Mental Health Services, Inc., Missouri.............$159,272.00

Contact: Dr. Keith Shafer, Director, P.O. Box 1643, Jefferson City, Missouri, 65102

S.A.V.E. Foundation, Kansas City, Missouri..$57,477.00
Interfaith Network d/b/a Doorways, St. Louis, Missouri......................$204,326.00

Contact: Dr. John R. Bagby, Director, Missouri Department of Health, 1730 East Elm, Jefferson City, Missouri, 65102; Telephone (314) 751–6001

New Hampshire:

Central New Hampshire Community Mental Health Services, New Hampshire..$5,486.00
William J. Moore Regional Services, Inc., Manchester, New Hampshire..$31,974.00
Seacoast Mental Health Center, Portsmouth..$113,983.00
Strafford Guidance Center, Inc., Dover, New Hampshire..........................$217,080.00
Harber Homes, Inc., Nashua, New Hampshire..$488,178.00

Contact: Mr. Donald L. Schumway, Director, 105 Pleasant Street, Concord, New Hampshire 03301; Telephone (603) 271–5007

New Jersey:

Assocation for Advancement of the Mentally Handicapped, Elizabeth, Plainfield and Roselle, New Jersey..$1,175,475.00

Contact: Mr. Melvin R. Primas, Jr., Commissioner, 101 South Broad Street, Trenton, New Jersey 08625–0051

New York:

Mercy Haven, Inc., Amityville, New York..$251,754.00
Argus Community, Inc., Bronx, New York..$436,180.00
Northern Manhattan Improvement Corporation, New York, New York..$655,775.00
West Side Federation for Senior Housing, Inc., New York, New York..$1,172,705.00

Contact: Mr. Peter R. Brest, Action Associate Commissioner, 40 North Pearl Street 10–A, Albany, New York 12243; Telephone (212) 804–1295

Ohio:

The Community Action Program, Marietta, Ohio..$70,337.00
Del-Mor Dwellings Corporation, Delaware, Ohio..$138,132.00
AIDS Housing Council of Greater Cleveland, Cleveland, Ohio......$172,422.00

Contact: Ms. Roberta F. Garber, Deputy Director, 77 South High Street, Columbus, Ohio 43266–0101; Telephone (614) 466–5863

Rhode Island

Blackstone Valley Chapter, Pawtucket, Rhode Island..$207,499.00

Contact: Mr. Charles R. Masolillo, Director, State House, Providence, Rhode Island 09203; Telephone (401) 277–2850

Texas:

Austin Travis County Mental Health Center, Austin, Texas.................$110,323.00

Contact: Mr. Willie Scott, Executive Director, 8317 Cross Park Drive, Austin, Texas 78754–5124; Telephone (512) 834–6010

Utah:

Provo City Housing Authority, Provo, Utah..$60,247.00

Contact: Ms. Alice Shearer, Director, 324 South State Street, Salt Lake City, Utah 84111; Telephone (801) 538–0723

Virginia:

Community Alternatives Management Group, Inc., Virginia Beach, Virginia..$1,680,000.00
Robert E. Rose Memorial Foundation, Inc., Winchester, Virginia...........$53,724.00
Presbyterian Home and Family Services, Inc., Fredericksburg, Virginia..$147,000.00
Pleasant View Homes, Inc., Harrisburg, Virginia..$343,698.00

Contact: Mr. Neal J. Barber, Director, 205 North 4th Street, Richmond, Virginia 23319–1747; Telephone (804) 786–1575

Washington:

Community Psychiatric Clinic, Seattle, Washington..$142,613.00
Community Psychiatric Clinic, Seattle, Washington..$173,532.00
Community Home Health Care, Seattle, Washington..................$313,707.00

Contact: Mr. Chuck Clark, Director, Ninth and Columbia Bldg., MS: GH–51, Olympia, Washington 98504–4151

Wisconsin:

South Community Organization, Milwaukee, Wisconsin...............$232,349.00
The Ranch, Inc., Menomonee Falls, Wisconsin

Contact: Mr. Tommy G. Thompson, Governor, One South Pinckney Street, Suite 500, Madison, Wisconsin 53701–1728; Telephone (608) 266–1212

B. Transitional Housing

On March 5, 1990, HUD published an announcement in the **Federal Register** (55 FR 7872) that informed the public of the availability of $115 million for transitional housing. The funds are available for assistance in the form of: (1) Advance acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures; (2) advances for new construction (under limited circumstances); (3) grants for moderate rehabilitation of existing structures; (4) grants for annual operating costs and supportive services costs (up to five years); (5) grants for establishing and operating employment assistance programs (up to five years).

The application deadline was May 21, 1990. A total of $119.5 million was awarded to applicants for 143 projects.

Under section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names, addresses, and amounts of the awards for transitional housing as follows:

Alaska:

Women's Resource and Crisis Center, Kenai, Alaska..$490,889.00

Contact: Ms. Joanne F. Lopez, Executive Director, 325 S. Spruce Street, Kenai, Alaska 99611; Telephone: (901) 283–9479

Mat-Su Community Mental Health Services, Inc., Wasilla, Alaska $478,161.00

Contact: Mr. Robert Irvine, Executive Director, 230 East Paulson, Suite 68, Wasilla, Alaska 99687; Telephone: (907) 376–2411

Arkansas:

Our House, Inc., Little Rock, Arkansas..$1,098,273.00

Contact: Mr. Joe Flaherty, Executive Director, 822 South Louisiana Street, Little Rock, Arkansas 72201; Telephone: (501) 375–2416

Counseling Associate, Inc., Russellville, Arkansas.............$2,482,180.00

Contact: Ms. Mary A. Schreiber, Executive Director, 110 Skyline Drive, Russellville, Arkansas 72801; Telephone: (501) 9680–1298

Arizona:

Phoenix South Community Mental Health Centers, Phoenix, Arizona $1,139,541.00

Contact: Mr. Steve B. Scott, Ph.D., Executive Director, 1424 South 7th Avenue, Phoenix, Arizona; Telephone: (602) 257–9339

California:

Contra Costa County, Concord, California..$2,197,318.00

Contact: Mr. James A Rydingsword, Director, Social Service Department, P.O. Box 5488, Concord, California 94524; Telephone: (415) 646–5100

Alpha Project, El Cajon, California $2,496,875.00

Contact: Mr. Robert McElroy, Executive Director, 154 Rea Street, El Cajon, California 92020; Telephone: (619) 579–7119

St. Clare's Home, Inc., Escondido, California..$530,414.00

Contact: Sister Clare Frawley, Executive Director, 2502 South Orange Street, Suite 120, Escondido, California 92025; Telephone: (619) 741–0122

Fresno Young Women's Christian Association, Fresno, California $392,744.00

Contact: Ms. Jody Palmer, Executive Director, 1600 M. Street, Fresno, California 93721; Telephone: (209) 237-4706

The Salvation Army, A California Corporation, Glendale, California $254,170.00

Contact: Lt. David P. Riley, Divisional Commander, 801 South Central Avenue, Glendale, California 91204; Telephone: (213) 627-5571

Bethlehem House Project, Inc., Highland, California $422,692.00

Contact: Ms. Clare Lord, Chief Executive Director, 29803 Canal Street, Highland, California 92346; Telephone: (714) 862-8027

Innovative Housing for Community, Larkspur, California $768,928.00

Contact: Ms. Anne Howell, Executive Director, 325 Doherty Drive, Larkspan, California 94939; Telephone: (415) 924-6400

The Salvation Army; A California Corporation, Los Angeles, California $2,307,613.00

Contact: Mr. David P. Riley, Divisional Commander, 900 West 9th Street, Los Angeles, California 90015-0899; Telephone: (213) 627-5571

Gay and Lesbian Community Services, Los Angeles, California $2,229,633.00

Contact: Ms. Torie Osborn, Executive Director, 1213 N. Highland Avenue, Los Angeles, California 90038-1292; Telephone (213) 464-7400

The Bridge Counseling Center, Inc., Morgan Hill, California $235,171.00

Contact: Mr. Armando X. Mendoza, Executive Director P.O. Box 546, Morgan Hill, California 95038-0546; Telephone (408) 779-5773

L.A. Family Housing Corporation, North Hollywood, California $2,380,345.00

Contact: Mr. Arnold Stalk, Executive Director, 7843 Lankershim Boulevard, North Hollywood, California; Telephone: (818) 982-4091

Hope Housing Development Corporation, Oakland, California $1,552,039.00

Contact: Dr. Ernestine C. Reems, President, P.O. Box 5370, Oakland, California 94605; Telephone: (415) 568-5216

Diocese of San Diego Education and Welfare Corp., San Diego, California $2,138,074.00

Contact: Rev. Joseph A. Carroll, President, 1501 Imperial Avenue, San Diego, California 92101

San Diego Youth and Community Services, San Diego, California $311,250.00

Contact: Ms. Liz Shear, Executive Director, 3878 Old Town Avenue, Suite 200 B, San Diego, California 92110; Telephone: (619) 297-9310

Housing for Independent People, Inc., San Diego, California $804,942.00

Contact: Mr. Al Diludovico, Executive Director, 25 East Hedding Street, San Jose, California 95112; Telephone: (408) 294-9756

Emergency Housing Consortium, San Jose, California $1,060,750.00

Contact: Mr. Bary Del Buono, Executive Director, P.O. Box 2346, San Jose, California 95109; Telephone: (408) 298-9657

Marin Abused Women's Services, San Rafael, California $558,987.00

Contact: Ms. Donna Garske, Executive Director, 1717 Fifth Avenue, San Rafael, California 94901; Telephone: (415) 457-2464

Colorado

Mental Health Housing Corporation of Denver, Denver, Colorado $1,130,418.00

Contact: Ms. Sandra B. Goldhaber, President, 455 Sherman Street, Suite 480, Denver, Colorado 80203; Telephone (303) 777-1443

Family Tree, Inc., Wheat Ridge, Colorado $511,400.000

Contact: Mr. Paul N. Alison, President-Elect Board of Directors, 3805 Marshall Street, #100, Wheat Ridge, Colorado 80033; Telephone: (303) 422-2133

Connecticut

Friendship Service Center of New Britain, Inc., New Britain, Connecticut $662,500.00

Contact: Ms. Maria R. Simao, Executive Director, P.O. Box 1811, New Britain, Connecticut 06050; Telephone (203) 225-0211

Delaware

Ministry of Caring, Inc., Wilmington, Delaware $351,744.00

Contact: Mr. Ronald Giannone, Executive Director, 506 N. Church Street, Wilmington, Delaware 19801; Telephone: (302) 652-5523

District of Columbia

Marshall Community Development, Washington, DC $725,251

Contact: Mr. Lloyd D. Smith, Executive Director, 3917 Minnesota Avenue, NE., Washington, DC 20019; Telephone: (202) 396-1200

Community Family Life Services, Washington, DC $856,538.00

Contact: Rev. Thomas J. Knoll, Executive Director, 305 E. Street, N.W., Washington, DC 20001; Telephone: (202) 347-0511

The D.C. Coalition for the Homeless, Washington, DC $1,226,930.00

Contact: Ms. Jack M. White, Executive Director, 2824 Sherman Avenue, NW., Washington, D.C. 20001; Telephone: (202) 328-1184

Florida

Alachua County Housing Authority, Gainsville, Florida $1,552,496.00

Contact: Ms. Gail Monahan, Executive Director, 636 Northeast 1st Street, Gainesville, Florida 32601; Telephone: (904) 372-2549

YWCA of Jacksonville, Jacksonville, Florida $1,200,000.00

Contact: Ms. Sandra W. Beard, Chief Executive Officer, 325 East Duval Street, Jacksonville, Florida 32202; Telephone: (904) 390-3298

The Salvation Army/A Georgia Corporation, Lakeland, Florida $239,014.00

Contact: Mr. Wesley Faulkner, Treasurer, 830 N. Massachusetts Avenue, Lakeland, Florida 33802-0982; Telephone: (813) 682-8179

Anchorage Children's Home of Bay Co., Panama City, Florida $437,913.00

Contact: Ms. Barbara A. Cloud, Executive Director, 707 North Cove Boulevard, Panama City, Florida 32401; Telephone: (904) 763-7102

The Salvation Army, Tampa Area Command, Tampa, Florida $1,073,815.00

Contact: Mr. Wesley Faulkner, Treasurer, 1603 Florida Avenue, Tampa, Florida 33602-2614; Telephone: (813) 223-3781

Georgia

Progress Point, Inc. dba Bright Beginnings, Atlanta, Georgia $1,230,714.00

Contact: Me. J. M. George, Executive Director, 766 Confederate Avenue, Southeast, Atlanta, Georgia 30312; Telephone: (404) 627-1793

Child Service and Family Counseling Center, Inc., Atlanta, Georgia $845,585.00

Contact: Mr. Robert M. Weaver, Executive Director, 1105 West Peachtree Street, Northeast, Atlanta, Georgia 30357; Telephone: (404) 853-2800

Saint Jude's House, Inc., Atlanta, Georgia $911,257.00

Contact: Ms. Marjorie Bush, Executive Director, 95 Renaissance Parkway, Atlanta, Georgia 30308; Telephone: (404) 874-2224

Comprehensive Addition Rehabilitation Programs of Georgia, Inc., Decatur, Georgia $1,279,340.00

Contact: Mr. John W. Malone, President, 2145 Candler Road, Decatur, Georgia 30032; Telephone: (404) 284-5129

Chatham County Board of Health, Savannah, Georgia $304,273.00

Contact: Dr. Richard I. Staiman, District Health Director, P.O. Box 23407, Savannah, Georgia 31403-3407; Telephone: (912) 356-2108

Hawaii

Institute for Human Services, Honolulu, Hawaii $591,692.00

Contact: Mr. Richard Rowe, Managing Director, 350 Sumner Street, Honolulu, Hawaii 96817; Telephone: (808) 537-4944

Steadfast Housing Development Corp., Honolulu, Hawaii $840,050.00

Contact: Mr. Marvin B. Awaya, Executive Director, 677 Ala Moana Boulevard, Suite 506, Honolulu, Hawaii 96813; Telephone: (808) 599-6230

Steadfast Housing Development Corp., Honolulu, Hawaii........................$840,050.00

Contact: Mr. Marvin B. Awaya, Executive Director, 677 Ala Moana Boulevard, Suite 506, Honolulu, Hawaii 96813; Telephone: (808) 599-6230

Steadfast Housing Development Corp., Honolulu, Hawaii........................$840,050.00

Contact: Mr. Marvin B. Awaya, Executive Director, 677 Ala Moana Boulevard, Suite 506, Honolulu, Hawaii 96813; Telephone: (808) 599-6230

Steadfast Housing Development Corp., Honolulu, Hawaii........................$840,050.00

Contact: Mr. Marvin B. Awaya, Executive Director, 677 Ala Moana Boulevard, Suite 506, Honolulu, Hawaii 96813; Telephone: (808) 599-6230

Iowa

Hawkeye Area Community Action Program, Inc., Cedar Rapids, Iowa........................$2,071,242.00

Contact: Mr. Don Maniccia, Executive Director, P.O. Box 789, Cedar Rapids, Iowa 52406; Telephone: (319) 366-7631

Illinois

Community and Economic Development Association of Cook County, Inc., Chicago, Illinois.....$28,875.00

Contact: Mr. Charles D. Hughes, Jr., Executive Director, 224 North Des Plaines Street, Chicago, Illinois 60606; Telephone: (312) 207-5444

Casa Central, Chicago, Illinois........$184,519.00

Contact: Ms. Ann R. Alvarez, President, 1401 N. California Avenue, Chicago, Illinois 60622; Telephone: (312) 276-1902

Methodist Youth Services, Inc., Chicago, Illinois........................$516,432.00

Contact: Dr. H. F. Brown, Ph.D., Executive Director, P.O. Box 17319, Chicago, Illinois 60617; Telephone: (312) 728-1818

The Barnabas Project, Chicago, Illinois........................$289,419.00

Contact: Ms. Mary N. Bruce, Executive Director, P.O. Box 17319, Chicago, Illinois 60617; Telephone: 696-2614

Adult Community Outreach Network, Evanston, Illinois........................$1,504,758.00

Contact: Mr. E. V. Gordy, III, Board President, 909 Foster Street, Evanston, Illinois 60201; Telephone: (708) 491-0434

Catholic Charities, Diocese of Joliet, Illinois, Joliet, Illinois........................$290,100.00

Contact: Ms. Mary Ellen Durbin, Director of Emergency Services, 411 Scott Street, Joliet, Illinois 60432; Telephone: (708) 495-8008

Youth Services Network, Inc., Rockford, Illinois........................$1,230,800.00

Contact: Ms. Arlene Jackson, Executive Director, 4302 N. Main Street, Rockford, Illinois 61213; Telephone: (815) 987-7575

City of Urbana, Urbana, Illinois..........$194,244

Contact: May. Jeffrey T. Markland, Mayor, 400 South Vine Street, Urbana, Illinois 61801; Telephone: (217) 384-2456

Indiana

South Central Community Mental Health Centers, Inc., Bloomington, Indiana........................$1,260,000.00

Contact: Mr. John L. Werner, Ed.D., Executive Director, 645 South Rogers Street, Bloomington, Indiana 47403-2353; Telephone: (612) 339-1691

The Salvation Army/An Illinois Corporation, Indianapolis, Indiana........................$812,182.00

Contact: Col. Edward J. Johnson, Chief Secretary, 540 North Alabama Street, Indianapolis, Indiana 46204-1597; Telephone: (312) 440-4600

Lafayette Transitional Housing Center, Inc., Lafayette, Indiana.............$300,850.00

Contact: Mr. Paul Shireman, President, 118 North 8th Street, Lafayette, Indiana 47901; Telephone: (317) 743-4652

Community Mental Health Center, Inc., Lawrenceburg, Indiana..........$1,966,381.00

Contact: Mr. Joseph D. Stephens, Executive Director, 285 Bielby Road, Lawrenceburg, Indiana 47025; Telephone: (812) 537-1302

Kentucky

Chrysalis House, Lexington, Kentucky........................$724,146.00

Contact: Ms. Cornelia Vaughan, President of the Board, 251 East Maxwell Street, Lexington, Kentucky 40508; Telephone: (606) 252-6690

St. Vincent DePaul Society, Louisville, Kentucky........................$208,895.00

Contact: Mr. Paul J. Willenbrink, Executive Director, 1015-C South Preston Street, Louisville, Kentucky 40203; Telephone: (502) 584-2480

Home of the Innocents, Inc., Louisville, Kentucky........................$626,640

Contact: Mr. David A. Graves, Executive Director, 485 East Gay Street, Louisville, Kentucky 40202; Telephone: (502) 561-6600

Louisiana

Volunteers of America, Greater Baton Rouge, Inc., Baton Rouge, Louisiana........................$410,565.00

Contact: Mr. William M. Coffey, Chief Executive Officer, 144 Maxmillian Street, Baton Rouge, Louisiana 70802; Telephone: (504) 387-0061

Massachusetts

Pine Street Inn, Inc., Boston, Massachusetts........................$3,387,139.00

Contact: Mr. Ralph W. Hughes, Assistant Executive Director, 444 Harrison Avenue, Boston, Massachusetts 02118; Telephone: (617) 482-4944

Valley Programs, Inc., Northampton, Massachusetts........................$946,935.00

Contact: Ms. Susan L. Stubbs, Executive Director, 129 King Street, Northampton, Massachusetts; Telephone: (413) 584-7329

Maryland

State of Maryland, Annapolis, Maryland........................$1,880,208.00

Contact: Ms. Jacqueline H. Rogers, Secretary DHCD, 45 Calvert Street, Annapolis, Maryland 21401-1907; Telephone: (301) 974-3176

Prince George's County Government, Hyattsville, Maryland...............$799,745.00

Contact: Ms. Mary Godfrey, Dep. Chief Admin. Officer, 6111 Ager Road, Hyattsville, Maryland 20782; Telephone: (301) 952-3620

Housing Opportunities Commission of Montgomery County, Kensington, Maryland........................$1,365,650.00

Contact: Mr. Melvin J. Adams, Acting Executive Director, 10400 Detrick Avenue, Kensington, Maryland 20895; Telephone: (301) 933-9750.

Maine

Young Women's Christian Association of Portland, Maine, Inc., Portland, Maine........................$782,813.00

Contact: Ms. Elizabeth H. Hunt, President, Board of Directors, 87 Spring Street, Portland, Maine 04101; Telephone: (207) 874-1130

Community Concepts, Inc., South Paris, Maine........................$512,676.00

Contact: Mr. Matthew M. Smith, Director of Administration, P.O. Box 278, South Paris, Maine 04281; Telephone: (207) 743-7716

Michigan

Coalition on Temporary Shelter (COTS), Detroit, Michigan.........$842,476.00

Contact: Ms. Peggy Posa, Executive Director, 26 Peterboro, Detroit, Michigan 48201; Telephone (313) 831-0621

YWCA of Greater Flint, Flint, Michigan........................$933,844.00

Contact: Ms. Charlotte L. Williams, President, 310 East Third Street, Flint, Michigan 48502; Telephone: (313) 238-7621

Dwelling Place of Grand Rapids, Inc., Grand Rapids, Michigan............$734,179.00

Contact: Mr. Larry L. Bratschie, Board President, 343 South Division Avenue, Grand Rapids, Michigan 49503; Telephone: (616) 454-0928

Center for Women in Transition, Holland, Michigan........................$472,032.00

Contact: Ms. Madlyn Perkins, Executive Director, 304 Garden Avenue, Holland, Michigan 49424; Telephone: (616) 392-2829

Salvation Army Michigan Division, Southfield, Michigan................$1,240,314.00

Contact: Lt. Clarence W. Harvey, Lt. Col., Divisional Commander, 16130 Northland Drive, Southfield, Michigan 48075; Telephone: (313) 443-5500.

Minnesota

Union City Mission, Inc., Plymouth, Minnesota........................$122,535.00

Contact: Ms. Patricia J. Murphy, Executive Director, 3409 E. Medicine Lake Blvd., Plymouth, Minnesota 55441

Missouri

Families Assisted in Transitional Housing Inc., Clinton, Missouri $438,783.00

Contact: Mr. Grover Parks, Board Secretary, 1007–1011 South Second, Clinton, Missouri 55441; Telephone: (816) 885–5852

Economic Security Corporation of S.W. Area, Joplin, Missouri $446,165.00

Contact: Mr. Daryl Andrews, Executive Director, P.O. Box 207, Joplin, Missouri 64802–0207; Telephone: (417) 781–0352

The Salvation Army, St. Louis, Missouri $508,023.00

Contact: Major M. L. McLaren, General Secretary, 10740 Page Boulevard, St. Louis, Missouri 63132; Telephone: (314) 533–6861

Pine Belt Mental Health and Retardation Services, Hattiesburg, Missouri $186,000

Contact: Dr. Charles Main, Ph.D., Executive Director, P.O. Box 1030, Hattiesburg, Missouri 39401; Telephone: (601) 544–4641

Montana

Poverello Center, Inc., Missoula, Montana $492,634.00

Contact: Sis. Anne Kovis, S.P., Director, P.O. Box 7644, Missoula, Montana 59802; Telephone: (406) 728–1809

North Carolina

Durham Presbyterian Council, Durham, North Carolina $492,634.00

Contact: Rev. Haywood Holderness, Treasury, Durham Presbyterian Cou./ Comm., P.O. Box 51404, Durham, N.C. 27717–1404; Telephone: (919) 489–4974

City of Raleigh, Raleigh, North Carolina L$536,614.00

Contact: Mr. Dempsey E. Benton, City Manager, P.O. Box 590, Raleigh, North Carolina 27602; Telephone: (919) 890–3170

North Dakota

Fargo-Moorhead YWCA, Fargo, North Dakota $347,161.00

Contact: Ms. Jan Gabriel, Executive Director, 1616 12th Avenue North, Fargo, North Dakota 58102; Telephone: (701) 232–2547

Family Crisis Shelter, Walliston, North Dakota $50,400.00

Contact: Ms. Janet Zander, President, FACs, Box 1893, Walliston, North Dakota 58801; Telephone: (701) 572–0757

Nebraska

Lincoln Lancaster Drug Projects, Inc., Lincoln, Nebraska $1,804,978.00

Contact: Ms. Valdeen Nelson, Executive Director, 3200 "O" Street, Suite 1, Lincoln, Nebraska 68503; Telephone: (402) 475–5161

Catholic Social Services, Lincoln, Nebraska $420,951.00

Contact: Father Thomas L. Holoman, Executive Director, 335 North 27th Street, Lincoln, Nebraska 68503; Telephone: (402) 474–1600

New Jersey

C/O Concerned Families for Improved Mental Health, Inc., East Orange, New Jersey $1,487,926.00

Contact: Mr. Richard McDonnell, Consultant, 424 Main Street, East Orange, New Jersey 07017; Telephone: (609) 924–7174

Association for Advance of the Mentally Handicapped, Elizabeth, New Jersey $257,250.00

Contact: Mr. Sidney Blanchard, Executive Director, 60 Prince Street, Elizabeth, New Jersey 07208; Telephone: (201) 354–3040

Bergen County Community Action Program, Inc., Hackensack, New Jersey $882,465.00

Contact: Mr. Robert F. Halsh, Jr., Executive Director, 214 State Street, Hackensack, New Jersey 07601; Telephone: (201) 488–5100

Bonnie Brae, Millington, New Jersey $1,789,754.00

Contact: Dr. Susan G. Roth, Executive Director, Valley Road, Millington, New Jersey 07946; Telephone: (201) 647–0880

New Community Harmony House Corp., Newark, New Jersey $464,137.00

Contact: Ms. Jeanette Page-Hawkins, Administrator, 278–282 South Orange Avenue, Newark, New Jersey 07103; Telephone: (201) 623–8555

Alternatives, Inc., Somerville, New Jersey $775,152.00

Contact: Ms. Nancy Good, President, P.O. Box 338, Somerville, New Jersey 08876–0338; Telephone: (201) 685–1444

N.J. Department of Community Affairs, Trenton, New Jersey $452,481.00

Contact: Mr. Roy Ziegler, Chief, 101 South Board Street—CN 051, Trenton, New Jersey 08625–0051; Telephone: (609) 633–6150

Nevada

Women's Development Center, Las Vegas, Nevada $518,033.00

Contact: Ms. Barbara Buckley, Member, Executive Board, 2002 10th Street, Las Vegas, Nevada 89104; Telephone: (702) 386–1059

Committee to Aid Abused Women, Sparks, Nevada $780,769.00

Contact: Ms. Joni A. Kaiser, Executive Board, CAAW, 101 15th Street, Sparks, Nevada 89431; Telephone: (702) 358–4150

New York

Albany Housing Coalition, Inc., Albany, New York $337,929.00

Contact: Ms. Gloria C. Wexler, Executive Director, 151 Clinton Avenue, Albany, New York 12210; Telephone: (518) 465–5251

Steuben Churchpeople Against Poverty, Inc., Bath, New York...$199,426.00

Contact: Ms. Lynn Reid Perkins, Executive Director, 108 Liberty Street, Bath, New York 14810; Telephone: (607) 766–7664

BASICS, Inc., Bronx, New York... $2,166,120.00

Contact: Ms. Carmello Zumatto, Executive Director, 1486 Stadium Avenue, Bronx, New York 10465; Telephone: (212) 589–1096

Fordham Bedford Housing Corp., Bronx, New York $321,686.00

Contact: Mr. John J. Jenik, President, 2751 Grand Concourse, Bronx, New York 10468; Telephone: (212) 367–3200

People, Services to the Developmentally Disabled, Inc., Buffalo, New York $893,037.00

Contact: Mr. James M. Boles, Ed.D., Executive Director, 737 Delaware Avenue, Buffalo, New York 14209; Telephone: (716) 883–4444

Elmcor Youth & Adult Activities, Inc., East Elmhurst, New York $747,300.00

Contact: Ms. Elwanda Young, Executive Director, 98–04 Astoria Boulevard, East Elmhurst, New York 11369; Telephone: (718) 446–8010

Fountain House, Inc., New York, New York $1,386,771.00

Contact: Mr. James R. Schmidt, Executive Director, 425 West 47th Street, New York, New York 10036; Telephone: (212) 582–0876

Phase: Piggy Back, Inc., New York $1,656,895.00

Contact: Mr. Abukarriem Shabazz, Executive Director, 507 West 145th Street, New York, New York 10031; Telephone: (212) 234–1660

BRC Human Services Corp., New York, New York $1,931,737.00

Contact: Mr. Eric Roth, Acting Executive Director, Acting Executive Director, 191 Chrystie Street, New York, New York 10002; Telephone: (212) 533–5700

Homes Away from Home, New York, New York $330,750.00

Contact: Mr. Ralph Nunez, President, 44 Cooper Square, Suite 3R, New York, New York 10003; Telephone: (212) 529–5252

Volunteers of America of Western N.Y., Rochester, New York $543,715.00

Contact: Ms. Loretta Darling, CEO/President, 175 Ward Street, Rochester, New York 14605; Telephone: (719) 454–1150

Ohio

Tom Geiger Guest House, Inc., Cincinnati, Ohio $297,791.00

Contact: Mr. Thomas Bokenkotter, Acting Director, 2631 Gilbert Avenue, Cincinnati, Ohio 45206; Telephone: (513) 961–3242

New Life Youth Services, Inc., Cincinnati, Ohio $1,388,228.00

Contact: Mr. Robert C. Mecum, Executive Director, 6128 Madison Road, Cincinnati, Ohio 45227; Telephone: (513) 561–0100

Community Action Commission of Fayette County, Washington, Ohio $205,899.00

Contact: Mr. Jack M. Hagerty, Executive Director, 324 East Court Street, Washington, Ohio 43160; Telephone: (614) 355–7282

Oklahoma

Peachtree Landing, Inc., Ponca City, Oklahoma........ $53,172.00

Contact: Mr. Matt Auld, President, 105 West Hazel, Ponca City, Oklahoma 75601; Telephone: (405) 762–3208

Mental Health Association in Tulsa, Inc., Tulsa, Oklahoma........ $483,306.00

Contact: Ms. Sharon Bartlett, President, 1502 South Denver, Tulsa, Oklahoma 74106; Telephone: (918) 492–5135

Oregon

Coast Rehabilitation Service, Astoria, Oregon........ $496,279.00

Contact: Mr. Mark Terranova, Executive Director, 340 15th Street, Astoria, Oregon 97103; Telephone: (503) 325–7059

Housing Authority of County of Clackamas, Inc., Oregon City, Oregon........ $458,243.00

Contact: Ms. Susan Wagner, Executive Director, 13930 South Gain, Oregon City, Oregon 97045; Telephone: (503) 655–8267

Central City Concern, Inc., Portland, Oregon........ $1,419,010.00

Contact: Ms. Deborah J. Wood, Executive Director, 709 Northwest Everett, Portland, Oregon 97209; Telephone: (503) 294–1681

Pennsylvania

Trevor's Campaign, Inc., Ardmore, Pennsylvania........ $729,620.00

Contact: Ms. Karen J. Miller, Ph.D., Executive Director, 137–139 East Spring Avenue, Ardmore, Pennsylvania 19003; Telephone: (215) 642–8452

Hospitality House Services for Women, Inc., Erie, Pennsylvania $349,833.00

Contact: Ms. Linda L. King, Executive Director, P.O. Bos 1436, Erie, Pennsylvania 16512; Telephone: (814) 455–1774

Council on Chemical Abuse, Reading, Pennsylvania........ $367,288.00

Contact: Mr. George J. Vogel, Jr., Executive Director, 229 North 5th Street, Reading, Pennsylvania 19601; Telephone: (215) 366–8669

Puerto Rico

Municipality of Aguadilla, Aguadilla, Puerto Rico........ $1,116,937.00

Contact: Mr. Ramon C. Bermudez, Mayor, P.O. Box 520 V.S., Aguadilla, Puerto Rico 00605; Telephone: (809) 891–3965

South Carolina

Berkeley-Charleston-Dorchester Regional Development Corp., Charleston, South Carolina........ $516,015.00

Contact: Mr. Thomas L. Hansen, Executive Director, Business & Technology Center I–548, 701 East Bay Street, Charleston, South Carolina 29403; Telephone: (803) 577–6990

Tennessee

The Salvation Army, Nashville, Tennessee........ $1,511,682.00

Contact: Mr. Wesley Faulkner, Treasurer, 114 North First Street, Nashville, Tennessee 37213; Telephone: (615) 242–0411

Texas

City of Amarillo, Amarillo, Texas.... 302,445.00

Contact: Mr. John Q. Ward, City Manager, P.O. Box 1971, Amarillo, Texas 79186; Telephone: (806) 378–3011

Phoenix House, Inc., Dallas, Texas $629,452.00

Contact: Ms. Melodie Clemons, Executive Director, 722 1/2 Tenison Memorial, Dallas, Texas 75223; Telephone: (214) 321–7036

City of El Paso, Texas, El Paso, Texas $761,259.00

Contact: Ms. Suzanne Azar, Mayor, #2 Civic Center Plaza, El Paso, Texas 79901; Telephone: (915) 541–4145

Paraclete Foundation, Houston, Texas........ $611,660.00

Contact: Ms. Thelma Tapiador, R.N., Executive Director, 9611 Marlive Lane, Houston, Texas 77025; Telephone: (713) 664–0902

City of San Antonio, San Antonio, Texas........ $1,248,763.00

Contact: Mr. Kevin C. Moriarty, Director, P.O. Box 839966, San Antonio, Texas 78283–3966; Telephone: (512) 299–7200

Utah

Your Community Connection of Ogden, Ogden, Utah........ $863,882.00

Contact: Ms. Gaye D. Littleton, Executive Director, 2261 Adams Avenue, Ogden, Utah 84401; Telephone: (801) 394–9456

Virginia

Fairfax County Department of Human Development, Fairfax, Virginia $3,400,100.00

Contact: Ms. Suzanne C. Manzo, Director, 10680 Main Street, Fairfax, Virginia 22030; Telephone: (804) 218–2909

Virginia Beach Community Development Corp., Virginia Beach, Virginia........ $786,971.00

Contact: Ms. Mary K. Horoszewski, Executive Director, 397 Little Neck Road, 3300 Bldg., Suite 202, Virginia Beach, Virginia 23452; Telephone: (804) 463–9516

Washington

Housing Hope, Everett, Washington $220,523.00

Contact: Ms. Amy Youngstrom, Board President, P.O. Box 7823, Everett, Washington 98201; Telephone: (206) 258–2214

Kent Valley Youth Services, Kent, Washington........ $380,726.00

Contact: Mr. Hans M. Rasmussen, Executive Director, 232 2nd Avenue Suite 201, Kent, Washington 98032; Telephone: (206) 859–0300

Pathways for Women, Lynnwood, Washington........ $576,550.00

Contact: Ms. Anne Gordon, Executive Director, P.O. Box 5627, Lynnwood, Washington 98046; Telephone: (206) 774–9843

Lutheran Compass Center, Seattle, Washington........ $60,546.00

Contact: Ms. Pat Champion, President of the Board, 77 South Washington, Seattle, Washington 98104; Telephone: (206) 441–1925

Catholic Community Services, Seattle, Washington........ $856,425.00

Contact: Mr. Len Beil, Executive Director, P.O. Box 22608, Seattle, Washington 98122; Telephone: (206) 328–5701

El Centro de la Raza, Seattle, Washington........ $366,783.00

Contact: Mr. Roberto Maestas, Executive Director, 2524 16th Avenue, South Seattle, Washington 98144; Telephone: (206) 329–9442

Central Area Community Alcohol and Substance Abuse Center, Seattle, Washington........ $606,190.00

Contact: Mr. Mike Tretton, Executive Director, 1401 E. Jefferson Street, Suite 300, Seattle, Washington 98122; Telephone: (206) 322–2970

Volunteers of America of Spokane, Spokane, Washington........ $276,497.00

Contact: Mr. Kenneth M. Trent, President/Executive Director, North 507 Howard Street, Spokane, Washington 99207; Telephone: (509) 325–9268

KJNW Enterprises, Inc., Spokane, Washington........ $341,873.00

Contact: Mr. Frank W. Howe, Executive Director, P.O. Box 7229, Spokane, Washington 99207; Telephone: (509) 325–9268

Clark County Board of Commissioners, Vancouver, Washington........ $502,552.00

Contact: Mr. David W. Sturdevant, Chairman, Board of Commissioners, P.O. Box 5000, Vancouver, Washington 98668–5000; Telephone: (206) 699–2232

Central Wisconsin Community Action Council, Lake Delton, Wisconsin $236,212.00

Contact: Mr. Robert D. Jones, Executive Director, 205 East Lake Avenue, Box 570, Lake Delton, Wisconsin 53940; Telephone: (608) 254–8353

Transitional Housing, Inc., Madison, Wisconsin........ $628,777.00

Contact: Ms. Ann Haney, Designated Signator, Board of Directors, 116 West Washington Avenue, Madison, Wisconsin 53703; Telephone: (808) 255–2960

Milwaukee Housing Assistance Corporation, Milwaukee, Wisconsin........ $325,000.00

Contact: Mr. Scott Lancelot, Executive Director, 152 West Wisconsin Avenue, Suite 203, Milwaukee, Wisconsin 53203; Telephone: (414) 277–9630

West Virginia

Ohio County Youth Services System, Inc., Wheeling, West Virginia...$314,900.00

Contact: Mr. Ronald Mulholland, Executive Director, 1000 Chapline Street, Wheeling, West Virginia 26003; Telephone: (304) 233–9627

Dated: December 6, 1990.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 90–29154 Filed 12–12–90; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Wapato Irrigation Project, Washington

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed operation and maintenance rates.

SUMMARY: The purposes of this notice is to change the assessment rates for operating and maintaining the Wapato Irrigation Project. The assessment rates are based on a prepared estimate of the cost of normal operation and maintenance of the irrigation project. Normal operations and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water, including maintaining pumps and other facilities.

EFFECTIVE DATE: Interested parties may submit written comments on or before January 14, 1991.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, Oregon 97232–4169, telephone FTS 429–6750; commercial (503) 231–6750.

SUPPLEMENTARY INFORMATION: This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and delegated by the Assistant Secretary—Indian Affairs to the Area Director in BIAM 3.

This notice is given in accordance with § 171.1(e) of part 171, subchapter H, chapter I, of title 25 of the Code of Federal Regulations, which provide for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Wapato Irrigation Project for Calendar Year 1991 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

The purpose of this notice is to announce an increase in the Wapato Project assessment rates proportionate with actual operation and maintenance costs. The proposed assessment rates for 1991 will amount to an increase of 8% for the Wapato Satus unit 15%, for B lands due to increased storage charges and a 28% increase for the Toppenish-Simcoe & Ahtanum Units, which have not had an increase for eight years. The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views and arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, Oregon 97232–4169, no later than 30 days after publication of this notice in the **Federal Register.**

Wapato Irrigation Project—General

Administration

The Wapato Irrigation Project, which consists of the Ahtanum Unit Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in part 171, Operation and Maintenance, title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposed from April 1 to September 30 each year. These dates may be varied as much as 20 days when weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Changes

Requests for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules.

Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Charges for Special Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1991 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report......... $15.00
(2) Requests for Verification of Account Delinquency Status, Per Report......... $10.00
(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee) Per Bill......... $10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee), Per Bill......... $10.00
(5) Requests for Other Special Services Similar to the above, when appropriate, Per Report......... $10.00
(6) Requests for elimination of lands from the Project. In the event that the elimination is approved, a portion of the fee will be used to pay the Yakima County Recording Fee ($10.00).
(7) Review of subdivision plats......... $10.00

Ahtanum Unit

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1991 and subsequent years until further notice, is fixed at $9.00 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Toppenish-Simcoe Unit

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1991 and subsequent years until further notice, is fixed at $9.00 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bills issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Wapato-Satus Unit

Charges

(a) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1991 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts	$29.60
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands	$29.60
(3) Rate per assessable acre for all lands with a storage water rights, known as "B" lands, in addition to other charges per acre	$5.54
(4) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands	$32.56

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied against all tracts of less than one acre.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership remaining unpaid on or after July 1 following the due date shall be considered delinquent. No water shall be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest and penalty fees will be assessed, where required by-law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, title 4, part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures.

Assessable Lands

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(b) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

Ronald Brown,

Acting Portland Area Director.

[FR Doc. 90-29181 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CO-932-01-4212; COC-51079, 50786, 48631, 51881, 51882, 51883]

Opening of Public Land; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and opening order.

SUMMARY: This action serves to inform the public of the conveyance out of Federal ownership of 307.46 acres of public land together with all minerals and 280.00 acres with all mineral reserved to the United States and the acquisition of 1,450.23 acres by the United States. This notice will open all of the 1,450.23 acres of reconveyed lands to surface entry. Minerals in 522.30 acres will be opened to the general mining laws and the mineral leasing laws. Minerals in the remaining 927.93 acres are federally owned by reservations in earlier patents and have been open to operation of the mining and mineral leasing laws.

DATES: Lands are open at 9 a.m. on January 18, 1991.

ADDRESSES: Colorado State Office, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

FOR FURTHER INFORMATION CONTACT: Andrew J. Senti, Bureau of Land Management, Colorado State Office (303) 239-3713.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the completion of exchanges of land between the United States and parties listed below. The Bureau of Land Management transferred title to the following described land under section 206 of the Federal Land Policy and Management Act of October 21, 1976:

Sixth Principal Meridian, Colorado

T. 20 S., R. 73 W., Patentee: Irvin Story
Sec. 29, SW¼SW¼
Sec. 31, SE¼SE¼;
Sec. 32, W½W½ and NE¼NW¼;

New Mexico Principal Meridian, Colorado

T. 47 N., R. 12 E.,
Sec. 25, lot 2 and E½SW¼;
370.12 acres.

Sixth Principal Meridian, Colorado

T. 5 S., R. 77 W., Patentees: Michael T. and Mary E. Bush
Sec. 7, lot 135—6.20 acres;
T. 9 S., R. 85 W., Patentee: Carol Craig
Sec. 14, lot 10,
Sec. 23, lot 6—3.23 acres
T. 9 S., R. 85 W., Patentee: Peter Heineman
Sec. 28, lot 8—1.57 acres;
T. 7 S., R. 89 W., Patentee: Eugene M. and Glaphy A. Spear
Sec. 15, lots 4 and 8—6.34 acres.

Sixth Principal Meridian, Colorado

T. 15 S., R. 73 W., Patentees: Bud L. and Betty M. Chess
Sec. 24, SW¼ and SW¼SE¼—200.00 acres.

In exchange, the following described lands were reconveyed to the United States:

By Shepard and Associates:

Sixth Principal Meridian, Colorado

T. 5 S., R. 85 W.,
Sec. 10 and 15: A tract of land being a portion of Tract 79, Lot 6 and a portion of Tract 80 more particularly described as Lot 2, O.R.E.O. ACRES according to the Plat thereof filed for record August 22, 1987 in Book 468 at Page 263. 42.30 acres.
T. 8 S., R. 87 W.,
Sec. 22, West Sopris Ranch, Parcel No. 12, beginning at the NW corner of Sec. 22, by metes and bounds, thence S. 88 degrees 53'16"E. 1,319.54 feet, thence S. 01 degrees 00'46" W. 1,169.50 feet, thence N. 88 degrees 54'42" W. 1,318.94 feet, thence N. 00 degrees 59'02" E. 1,170.10 feet to the TRUE POINT OF BEGINNING—35.43 acres.
T. 7 S., R. 98 W.,
Sec. 21, SE¼SE¼ and SW¼SE¼—80.00 acres.
T. 5 S., R. 91 W.,
Sec. 35, SE¼SW¼—40.00 acres
T. 7 S., R. 100 W.,
Sec. 16, NW¼NE¼,
Sec. 20, NE¼NW¼ and NW¼NE¼—120.00 acres.

New Mexico Principal Meridian, Colorado

T. 38 N., R. 12 E,
Sec. 17, exclusive of right-of-way for canal;
Sec. 18 lots 1, 2, E½NE¼, SW¼NE¼ and E½NW¼—892.50 acres

Sixth Principal Meridian, Colorado

T. 17 S., R. 69 W.,
Sec. 33, N½N½;

Sec. 34, N½NW¼—240.00 acres.

At 9 a.m. on January 18, 1991, the reconveyed lands described above will be open to operation of the public land laws generally, subject to valid existing withdrawals and the requirements of applicable law.

At 9 a.m. on January 18, 1991, the reconveyed lands described above in T. 5 S., R. 85 W., T. 7 S., R. 98 W., T 5 S., R. 91 W., T. 7 S., R. 100 W., and T. 17 S., R. 69 W. will open to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States.

Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for determination in local courts.

At 9 a.m. on January 18, 1991, the reconveyed lands described above in T. 5 S., R. 85 W., T. 7 S., R. 98 W., T. 5 S., R. 91 W., T. 7 S., R. 100 W., and T. 17 S., R. 69 W. will be open to applications and offers under the mineral leasing laws.

All applications received at or prior to 9 a.m. on January 18, 1991, will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2–3, if necessary. Applications and offers received thereafter shall be considered in the order of filing.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public lands and acquisition of nonfederal land by the Federal Government. These exchanges enabled private parties to obtain title to lands that were needed by them for use with contiguous lands they owned, and enabled the United States to obtain title to lands containing high multiple resource values. The exchanges were based on equal values of the properties exchanged, and payment of cash equalization to the United States to make up the difference in the estimated fair market value between the government and nongovernment lands.

Dated: December 4, 1990.

Robert S. Schmidt,

Chief, Branch of Realty Programs.

[FR Doc. 90–29190 Filed 12–12–90; 8:45 am]

BILLING CODE 4310–JB–M

[ID-943-00-4212-13; IDI-23537]

Order Providing for Opening of Public Land; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order opens lands received in a private exchange to the land laws.

EFFECTIVE DATE: January 9, 1991.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1720.

1. In an exchange made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been reconveyed to the United States:

Boise Meridian

T. 6 S., R. 16 E.,
Sec. 16, S½.

The area described contains 320.00 acres in Lincoln County.

2. At 9 a.m. on January 9, 1991, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on January 9, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: December 3, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90–29191 Filed 12–12–90; 8:45 am]

BILLING CODE 4310–GG–M

[CA-050-09-43-7122-10-U051; CA 24920]

Realty Actions; Sales, Leases, Etc.; California

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of realty action; noncompetitive sale of public lands in Trinity County, California.

SUMMARY: The following public land has been found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 USC 1713), at not less than the estimated fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

Mount Diablo Meridian

T. 32N., R. 9 W.
Section 31: Lot 8

Containing 0.97 acre, more or less.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to Robert Barone to resolve an inadvertent, survey-related trespass. It has been determined that the subject parcel contains no known mineral values; therefore, mineral interests may be conveyed simultaneously.

DATES: For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

ADDRESSES: Detailed information concerning this action is available for review at the office listed above.

FOR FURTHER INFORMATION CONTACT: Patricia Cook, Realty Specialist, Redding Resource Area, at the above address.

SUPPLEMENTARY INFORMATION: The patent, when issued, will contain a reservation to the United States for ditches and canals.

Dated: November 27, 1990.

Mark T. Morse,

Area Manager.

[FR Doc. 90-29140 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-40-M

[CA-060-01-5440-10-ZBBB; CA-26872]

Realty Action; Exchange of Public and Private Lands, Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of notice of realty action: Exchange of public and private lands.

SUMMARY: This notice corrects an error in the description of the selected lands described in the notice of realty action published on Tuesday, August 14, 1990, in Vol. 55, No. 157, pages 33178 and 33179.

The land description should read:

Selected Public Lands

All remaining public lands located in:

San Bernardino Meridian

Township 3 South, Range 14 East, Sections: 25 through 36.

Township 3 South, Range 15 East, Sections: 30 through 31.
Township 4 South, Range 14 East, Sections: 1, 2, 3, 6, 11, and 12.
Township 4 South, Range 15 East, Sections: 4, 5, 6, and 7.

FOR FURTHER INFORMATION CONTACT: Marianne Wetzel, BLM Palm Springs-South Coast Resource Area, 400 S. Farrell Dr., Palm Springs, CA 92262, (619) 323-4421.

December 3, 1990.

Richard E. Crowe,

Acting District Manager.

[FR Doc. 90-29186 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-01-5410-10-B004; CACA 27443]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private lands described in this notice, aggregating 245.68 acres, are segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine their suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate non mineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, California State Office, Federal Office Building, 2800 Cottage Way, room E-2845, Sacramento, California 95825 (916) 978-4820.

Serial No. CACA 27443

T. 11 N., R. 13 W., San Bernardino Meridian

Sec. 4, E½E½ lot 1 NE¼, E½SW¼E½ lot 1 NE¼, E½SW¼ W½ lot 1 NE¼, W½NE¼E½ lot 1 NW¼, E½NW¼E½ lot 1 NW¼, W½SW¼E½ lot 1 NW¼, NW¼W½ lot 1 NW¼, E½SW¼W½ lot 1 NW¼, W½E½ lot 2 NE¼, E½SE¼W ½ lot 2 NE¼, NE¼NE¼SW¼, E½NW¼NE¼SW¼, W½SE¼N E¼SW¼ E½NW¼SW½, W½NE¼S W¼, W½NW¼SW¼, SW¼SW¼, W½SE¼SW¼, W½SE¼SE¼SW¼, W½NE¼SE¼, E½NW¼NW¼SE¼, W½NW¼SE¼SE¼, E½NE¼S W¼SE¼, SE¼SW¼SE¼,N½SE¼SE¼, E½SW¼SE¼SE¼.

County—Kern

Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1-1(b), the mineral interests owned by the United States in the private lands covered by the applications shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the applications shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of publication of this notice, whichever occurs first.

Dated: December 5, 1990.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 90-29194 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-40-M

[CA-060-43-7122 08 1016] (CA 27555)

Realty Action, California Desert District, Exchange of Public and Private Lands in San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public lands, San Bernardino County, California.

SUMMARY: BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership. The following described public lands, located in San Bernardino County are being considered for disposal by exchange pursuant to section 206 of the Federal Policy and Management Act of October 21, 1976, (43 U.S.C. 1716):

San Bernardino Meridian, CA

T. 6 N., R. 4 W.,
Sec. 27: NE¼SW¼.

Comprising 40 acres, more or less.

In exchange or these lands the United States will acquire from the City of Victorville, California, the following offered private lands within the Western Mojave Land Tenure Adjustment Area:

San Bernardino Meridian, CA

T. 10 N., R. 6 W.,
Sec. 13: N½S½.

The offered non-Federal lands are comprised of 160.00 acres, more or less.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws, and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

EFFECTIVE DATE: December 13, 1990.

FOR FURTHER INFORMATION CONTACT: For a period of forty-five (45) days, interested parties may submit comments to Karla Swanson, Barstow Resource Area, 150 Coolwater Lane, Barstow, California 92311.

SUPPLEMENTARY INFORMATION: The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

The disposal of the aforementioned public lands has been analyzed in the environmental impact statement/ environmental impact report for the Western Mojave Land Tenure Adjustment Project and are all consistent with the proposed amendment to the California Desert Conservation Area Plan. Land exchanges are the main means of implementation of the Western Mojave Land Tenure Adjustment Project.

Multiple Agency objectives are part of the project purpose and need. Existing checkerboard ownership causes scattered development with threats to resource management by BLM, airspace use by the Air Force, and logical and orderly development of private lands as overseen by the County. Consolidation of public lands through exchange for isolated public lands reduces these threats.

The exchanges will be on an equal value basis. Appraisals, will establish the fair market value of the public and private lands. Acreage of the public land will be adjusted to approximate equal values. Full equalization of value will be achieved by a cash payment not to exceed 25% of the value of the public lands.

The lands to be transferred from the United States will be subject to the following reservations and rights-of-way.

1. A reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States: Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for the construction, operation and maintenance of a 138 kV electric transmission line granted June 21, 1933 to the Southern Sierra Power Company, its successors or assigns (now

Southern California Edison Company), by right-of-way Serial No. CARI 01730, pursuant to the Act of December 21, 1928 (43 U.S.C. 617d).

3. Those rights for the construction, operation and maintenance of an underground natural gas pipeline granted August 21, 1959 to the Southern California Gas Company, its successors or assigns, by right-of-way Serial No. CALA 0153666, pursuant to the Act of February 25, 1920, as amended (30 U.S.C. 185).

Dated: November 30, 1990.

Gerald E. Hillier,

District Manager.

[OR 44409; OR-020-4212-13; GP1-061]

Realty Action; Land Exchange; Oregon

The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by land exchange under the authority of section 206 of the Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1716:

T. 39 S., R. 37 E., W.M. Oregon,
Sec. 2, S½NW¼, SW¼, SW¼SE¼;
Sec. 3, SE¼;
Sec. 10, E½, E½NW¼, NE¼SW¼, S½SW¼;
Sec. 11, NW¼NE¼, NW¼, NW¼SW¼;
Sec. 15, NW¼NE¼, N½NW¼

The area described above aggregates approximately 1,320 acres.

In exchange for these lands, the Federal Government will acquire the following described private land from Gary R. Defenbaugh and Doris I. Defenbaugh:

T. 39 S., R. 37 E., W.M., Oregon
Sec. 14, N½NW¼NE¼;
Sec. 16, N½N½;
Sec. 35, NE¼NW¼;
Sec. 36, NW¼NW¼, S½NW¼, NE¼SW¼, W½/SE¼.

The area described above aggregates approximately 460 acres.

The purpose of this exchange is to acquire important riparian habitat within the Mahogany Ridge Wilderness Study Area, and to Acquire access along the major route into the Trout Creek Mountains.

The land values will be equal, or the proponent may equalize values by purchasing a portion of the public land.

The exchange will be subject to:

1. The reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All other valid exisiting rights, including but not limited to any right-of-way, easement, or lease of record.

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, including the environmental assessment is available for review at the Burns District Office, HC 74-12533, Highway 20 West, Hines, Oregon 97738.

For a period of 45 days from the date of publication of this notice in the Federal Register interested parties may submit comments to the Burns District Manager at the above address.

Objection will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action may become the final determination of the Department of the Interior.

Dated: December 5, 1990.

Donald R. Cain,

Acting District Manager.

[FR Doc. 90-29187 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-33-M

[ID-942-01-4730-12]

Filing of Plats of Survey; Idaho

The official filing of the following described land was to be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., December 14, 1990. The official filing of these two plats is hereby stayed pending final resolution of a protest of the survey.

The plat representing the dependent resurvey of portions of the east and north boundaries and subdivisional lines, and the subdivision of section 1, T. 2 S., R. 37 E., Boise Meridian, Idaho, Group No. 788, was accepted October 24, 1990.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines, and original meanders of the right bank of the Blackfoot River, and the subdivision of certain sections, T. 2 S., R. 38 E., Boise Meridian, Idaho, Group No. 788, was accepted October 24, 1990.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 American Terrace, Boise, Idaho, 83706.

Dated: December 4, 1990.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 90-29193 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-GG-M

[OR-943-01-4214-11; GP1-060; ORE-03949, et al.]

Proposed Continuation of Withdrawals, Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, Bureau of Reclamation, proposes that all of the eight separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to surface entry and mining.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

The Bureau of Reclamation proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described lands and projects are involved:

1. ORE-03949, Bureau of Land Management Order dated April 25, 1956. Umatilla Project, 160 acres located in Section 12, T. 4 N., R. 25 E., W.M., in Morrow County, approximately 3 miles east of Boardman, Oregon.

2. OR-20271, Secretarial Order dated March 17, 1904. Umatilla Project, 700.38 acres located in Section 22, T. 5 N., R. 26 E., W.M., in Morrow County, approximately 3 miles west of the town of Irrigon, and Sections 18, 20, and 28, T. 5 N., R. 28 E., W.M., in Morrow County, approximately 3 miles south of the town of Umatilla, Oregon.

3. OR-20274, Secretarial Order dated August 16, 1905. Umatilla Project, 280 acres in Umatilla County, located in Section 3, T. 4 N., R. 28 E., Sections 22 and 34, T. 5 N., R. 29 E., and Section 31, T. 5 N., R. 30 E., W.M., approximately 5 miles east of Hermiston, Oregon.

4. OR-20275, Secretarial Order dated January 5, 1906. Umatilla Project, 1,468.20 acres located in Sections 2, 3, and 12, T. 4 N., R. 29 E., and Section 34, T. 5 N., R. 29 E., W.M., in Umatilla County, approximately 5 miles east of Hermiston, Oregon.

5. OR-20276, Secretarial Order dated February 14, 1906. Umatilla Project, 199.95 acres located in Section 3, T. 4 N., R. 29 E., Section 34, T. 5 N., R. 29 E., and Section 31, T. 5 N., R. 30 E., W.M., in Umatilla County, approximately 5 miles east of Hermiston, Oregon.

6. OR-20277, Secretarial Order dated August 16, 1906. Umatilla Project, 700.38 acres in Morrow County, located in Section 22, T. 5 N., R. 26 E., W.M., approximately 3 miles west of the town of Irrigon, and Sections 18, 20, and 28, T. 5 N., R. 28 E., W.M., approximately 3 miles south of the town of Umatilla, Oregon.

7. OR-20280, Secretarial Order dated June 2, 1915. Umatilla Project, 5 acres located in Section 32, T. 5 N., R. 29 E., W.M., in Umatilla County, approximately 4 miles northeast of Hermiston, Oregon.

8. OR-22211(WASH), Secretarial Order dated May 23, 1933. Yakima Project, 40 acres in Section 20, T. 19 N., R. 17 E., W.M., in Kittitas County, located approximately 9 miles northwest of Ellensburg, Washington.

The withdrawals currently segregate the lands from operation of the public land laws generally, including the mining laws. The Bureau of Reclamation requests no changes in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Dated: December 4, 1990.

Robert E. Mollohan,

Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 90-29192 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-33-M

Office of Surface Mining Reclamation and Enforcement

Request for Determination of Valid Existing Rights Within the Monongahela National Forest, WV; Ernest J. Van Gilder

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of request for determination and invitation for interested persons to participate.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) has received a request for a determination that Ernest J. Van Gilder has valid existing rights (VER) to surface mine coal on Federal lands within the Monongahela National Forest in Pocahontas County, West Virginia. By this notice, OSM is inviting interested persons to participate in the proceeding and to submit relevant factual material on the matter. OSM intends to develop a complete administrative record and will render a final agency decision on whether Ernest J. Van Gilder has VER.

DATES: OSM will accept written materials on this request for a VER determination until 5 p.m. local time on January 28, 1991.

ADDRESSES: Hand deliver or mail written materials to Carl C. Close, Assistant Director, Eastern Support Center at the address listed below. Documents contained in the Administrative Record are available for public review at the locations listed below during normal business hours, Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement Eastern Support Center, room 246, Ten Parkway Center, Pittsburgh, PA 15200, Telephone: (412) 937-2897.

Office of Surface Mining Reclamation and Enforcement Charleston Field Office, 603 Morris Street, Charleston, WV 25301, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION: Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) prohibits surface coal mining operations in certain areas, subject to VER and except for those operations which existed on August 3, 1977.

The term "VER" is not defined in SMCRA. On September 14, 1983 (48 FR 41312-41356), OSM adopted a regulatory definition of VER at 30 CFR 761.5 which defined VER as those rights, which if affected by the prohibitions in section 522(e), would entitle the owner to payment of just compensation under the Fifth and Fourteenth Amendments to the United States Constitution, the so-called "takings" test.

On March 22, 1985, the United States District Court for the District of Columbia held that the promulgation of the VER definition in 30 CFR 761.5 violated the Administrative procedures Act and remanded the definition to the Secretary of the Interior (*IN RE: Permanent Surface Mining Regulation Litigation II* No. 79-1144).

In the November 20, 1986, Federal Register (51 FR 41952), OSM suspended the Federal definition of VER insofar as it incorporates a takings test. OSM announced that during the period of suspension it would make VER determinations on Federal lands within the boundaries of national forests using the VER definition contained in the appropriate state regulatory program.

The term VER is defined in § 2.126 of the West Virginia Surface Mining Reclamation Regulations. Section 2.126 provides that VER exists, except for haulroads, in each case in which a person demonstrates that the limitation provided for in section A-3-22(d) of the West Virginia Surface Coal Mining and Reclamation Act would result in the unconstitutional taking of that person's rights.

On November 13, 1990, Ernest J. Van Gilder requested that OSM make a determination of VER for his planned surface coal mining operation on Federal lands within the Monongahela National Forest in the Little Levels District of Pocahontas County, West Virginia. Mr. Van Gilder purchased from Walter E. Helmick on August 3, 1990, certain mineral rights to the properties in question. Mr. Helmick acquired these mineral rights from the estate of Cecil E. Nichols who prior to his death had requested a determination of VER which was announced by OSM in the January 22, 1990, Federal Register (55 FR 2163). Mr. Van Gilder's request for VER incorporates as part of the administrative record all supporting documents and public comments received by OSM in response to the Nichols' request for VER.

Mr. Van Gilder alleges that he owns mineral rights on two adjacent tracts of land, the surface of which is owned by the United States of America and managed by the United States Forest Service. Tract 574 contains 1,045.3 acres and is situated seven miles west of Hillsboro, West Virginia on the waters of Hills Creek and the waters of Robins Run, a tributary of Spring Creek. The second track, known as the Killingsworth Tract, contains 179 acres and is situated on the headwaters of Spruce Run, a tributary of the

Greenbrier River. Both properties are located on Briery Knob. They each were mined during the 1940's by surface mining methods. A face-up area for an underground coal mine under permit by the West Virginia Department of Energy is located on Tract 574.

In order to establish that the requestor has VER for surface coal mining on the properties in question, OSM must first determine that the requestor has demonstrated all necessary rights to mine the coal. OSM particularly invites interested persons to provide factual information as to whether the requestor has the property right to mine by the proposed method, and other factual information concerning whether the requestor has VER under the applicable standards.

OSM will make a final decision on Ernest J. Van Gilder's VER request as soon as it is practicable following completion of the administrative record. If OSM determines that Ernest J. Van Gilder has VER, he may apply to the West Virginia Department of Energy for a permit authorizing the surface and auger mining of coal on the two tracts in question. If it is determined that Mr. Van Gilder does not have VER, no surface or auger mining will permitted.

Dated: November 30, 1990.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 90-29177 Filed 12-12-90; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-290]

Certain Wire Electrical Discharge Machining Apparatus and Components Thereof; Termination of Formal Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the formal enforcement proceeding instituted on June 13, 1990 *see* 55 FR 25182 (June 20, 1990), and deny respondents' emergency petition of June 19, 1990, as moot.

ADDRESSES: Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Craig L. McKee, Esq., Office of General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone 202-252-1117. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: On June 13, 1990, the Commission instituted a formal enforcement proceeding in connection with the above-captioned investigation. The formal enforcement proceeding was for the purpose of determining whether respondents Sodick, Ltd., Sodick, Inc., KGK International Co., Yamazen USA, Inc., and Bridgeport Machines, Inc. ("Sodick") had imported newly-designed wire electrical discharge machining apparatus ("wire EDMs") that infringe claims 1, 7, 9, 20, and/or 22 of U.S. Letters Patent 3,928,163 (the '163 patent) in violation of Commission cease and desist orders.

Following the Commission action, respondents on June 19, 1990, filed an "emergency petition" seeking withdrawal of the Commission order instituting the formal enforcement proceeding. The petition alleged generally that the enforcement complaint failed adequately to apprise respondents of the grounds upon which the Commission's orders were violated, and it requested a Commission ruling by June 21, 1990, threatening court action unless the order were withdrawn by that date. On June 21, 1990, respondents moved for an extension of the deadline for filing their response to the complaint filed by the Commission's Office of Unfair Import Investigations (OUII) until 15 days after the Commission ruled on their petition. On June 27, 1990, the Commission granted Sodick's motion for extension of the response deadline.

On October 5, 1990, Judge Milton I. Shadur of the U.S. District Court for the Northern District of Illinois granted Sodick's motion for partial summary judgment, holding that Sodick's newly-designed wire EDMs do not infringe the five claims of the '163 patent covered by the Commission's cease and desist orders.

On October 12, 1990, respondents filed a letter requesting, *inter alia,* that the Commission withdraw its June 13, 1990, order instituting a formal enforcement proceeding, dismiss OUII's complaint, and terminate the present enforcement proceeding based upon the district court's grant of partial summary judgment.

On October 16, 1990, the Commission investigative attorney (IA) filed a motion seeking termination of the formal enforcement proceeding in view of the ruling issued by Judge Shadur.

On October 26, 1990, complainants filed a response to the IA's motion to terminate, arguing that if termination is warranted, it should be based upon the IA's withdrawal of its complaint.

The Commission determined to terminate the formal enforcement proceeding without prejudice to the institution of a new enforcement proceeding on the adjudicated issues should the district court's judgment be vacated or reversed on appeal, and to deny respondents' emergency petition as moot.

Issued: December 7, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-29158 Filed 12-12-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub 14)]

Intrastate Rail Rate Authority—Michigan

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Interstate Commerce Commission recertifies the State of Michigan to regulate intrastate rail rates, classification, rules, and practices for 5-year period.

DATES: Recertification will be effective January 12, 1991, and will expire February 10, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359.

Decided: December 5, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-29198 Filed 12-12-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 352)]

CSX Transportation, Inc.—Abandonment—in Ben Hill and Irwin Counties, GA; Findings

The Commission has found that the public convenience and necessity permit CSX Transportation, Inc. (CSXT) to abandon its rail line between Wiggins (milepost SLA-663.31) and Ocilla (milepost SLA-667.12) in Ben Hill and Irwin Counties, Georgia. The abandonment application was denied in all other respects.

The abandonment certificate will become effective January 12, 1990, unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from the publication of this notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR part 1152.

Decided: December 4, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett, and McDonald. Vice Chairman Phillips commented with a separate expression.

Sidney L. Strickland, Jr.,

Secretary

[FR Doc. 90-29197 Filed 12-12-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Appointment of Member to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the appointment of an individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register.**

The following individuals are hereby appointed to three-year terms, effective November 18, 1990:

Thomas C. Komarek
Janet L. Norwood

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Director of Personnel Management, Room C-5526, Department of Labor, Frances Perkins Building, Washington, DC 20210, Telephone Number (202) 523-6551.

Signed at Washington, DC, this 7th day of December 1990.

Roderick A. DeArment,

Acting Secretary.

[FR Doc. 90-29242 Filed 12-12-90; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Asea Brown Bouveri, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 24, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 24, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 3rd day of December 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Asea Brown Bouveri (workers)	Orange, CT	12/03/90	11/26/90	25,123	Motor Controls.
Belden Wire & Cable (workers)	Shrewsbury, MA	12/03/90	11/10/90	25,124	Telephone & Cable Wires (USWA).
Bio-Stimu Trend Corp. (workers)	Opa Locka, FL	12/03/90	11/20/90	25,125	Shoes.
Bright Star Industries (workers)	Clifton, NJ	12/03/90	11/21/90	25,126	Flashlights & Batteries.
Cedar Creek Forest Products (workers)	Ocean Shores, WA	12/03/90	11/20/90	25,127	Shingles & Lumber.
Champlin Refining & Chemicals, Inc. (workers)	Irving, TX	12/03/90	11/19/90	25,128	Gasoline & Diesel Fuel.
CNG Producing Co. (workers)	Tulsa, OK	12/03/90	10/27/90	25,129	Oil & Gas.
Cytemp Speciality Steel Co. (USWA)	Pittsburgh, PA	12/03/90	11/09/90	25,130	Steel Sheeting, Plates & Wire.
Delmet Corp. (IAW)	Walton, NY	12/03/90	11/01/90	25,131	Auto Accessories.
Dot Togs, Inc. (workers)	Rockland, MA	12/03/90	11/09/90	25,132	Sportswear.
Eastman Christensen (workers)	Houston, TX	12/03/90	11/20/90	25,133	Oil & Gas.
EECO Inc./Maxi-Switch (workers)	Tucson, AZ	12/03/90	11/16/90	25,134	Keyboards.
Gerber Childrenswear, Inc	Yadkinville, NC	12/03/90	10/30/90	25,135	Sleepwear.
Gerber Childrenswear, Inc.	Salisbury, NC	12/03/90	10/30/90	25,136	Sleepwear.
Gerber Childrenswear, Inc. (ACTWU)	Greensboro, NC	12/03/90	10/30/90	25,137	Sleepwear.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
H.D. Lee Co.—Plant #13 (UGWA)	Lebanon, MO	12/03/90	11/16/90	25,138	Apparel.
Harvey Industries, Sets Inc. (workers)	Athens, TX	12/03/90	11/19/90	25,139	TV & Component.
Hoover Co. (IBEW)	N Canton, OH	12/03/90	11/20/90	25,140	Vacuum Clearners.
Malcolm Nicol/IGI Epoxies Adhesives (OCAW)	Lyndhurst, NJ	12/03/90	11/11/90	25,141	Water Based.
Mr. Nick's Trucking Co., Inc. (workers)	Seekonk, MA	12/03/90	10/08/90	25,142	Oil & Fuel.
Mutterperl Group LTD (workers)	New York, NY	12/03/90	11/20/90	25,143	Belts & Handbags.
N.C.R. Corp. (IBEW)	Cambridge, OH	12/03/90	11/15/90	25,144	Terminals.
National Lock (workers)	Sikeston, MO	12/03/90	11/15/90	25,145	Door Locks.
Nightway Inc. (workers)	New York, NY	12/03/90	11/16/90	25,146	Dresses.
P.P.G. Industries, Inc. (workers)	Tipton, PA	12/03/90	11/07/90	25,147	Auto Lites.
Pyke Manufacturing Co. (workers)	Salt Lake City, UT	12/03/90	11/14/90	25,148	Apparel.
Sedro Woolley Lumber (workers)	Sedro Woolley, WA	12/03/90	11/20/90	25,149	Lumber.
Sewell Co. (workers)	Bremen, GA	12/03/90	11/14/90	25,150	Suits & Coats.
SKW Alloys Inc. (workers)	Calvert City, KY	12/03/90	11/12/90	25,151	Silicone.
Timken Co. (USWA)	Canton, OH	12/03/90	11/12/90	25,152	Bearings.
Tycho Technology, Inc. (workers)	Boulder, CO	12/03/90	11/19/90	25,153	Devices.
Whirlpool Corp. (UAW)	Mt. Sterling, KY	12/03/90	11/20/90	25,154	Trash Compactor.

[FR Doc. 90-29243 Filed 12-12-90; 8:45 am]

BILLING CODE 4810-30-M

[TA-W-24,940]

Cedarroth OR Medical; Termination of Investigation

Pursuant to section 221 (a) of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), an investigation was initiated on October 15, 1990 in response to a worker petition which was filed on behalf of workers at Cedarroth OR Medical, Buffalo, New York.

An active certification covering the petitioning group of workers remains in effect (TA-W-22,541). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 5th day of December 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-29244 Filed 12-12-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,522]

General Electric Co.; Consumer Electronics Business Operations; Negative Determination on Reconsideration

Pursuant to a remand in *Former Employees of General Electric Company* v. *Secretary of Labor,* (USCIT 87-08-00823) new findings on reconsideration were obtained to determine whether plaintiffs were production workers engaged in temporary "phase-out" activities related to General Electric's 1985 decision to cease production at Portsmouth and whether the decision to produce televisions in Japan contributed importantly to the worker separation within the meaning of 19 U.S.C. 2272.

Findings on reconsideration support the Department's denial of eligibility to apply for adjustment assistance benefits for the CEBO workers of GE in Portsmouth. The denial was based on the fact that there was no production at Portsmouth in 1987 when the workers were separated and a corporate restructuring took place which transferred or merged the headquarters functions at Portsmouth with that at Indianapolis.

Findings on reconsideration confirm the fact that all production at Portsmouth ceased on October 31, 1986. All employees directly involved in television production and warehousing were laid off by March 31, 1987 well within the 2-year coverage period of certification TA-W-15,701. That certification was issued on April 9, 1985 and continued in force until April 9, 1987. The certification was published in the **Federal Register** on April 23, 1985 (50 FR 15990-91).

Other findings show that the import sourcing agreement with Matsushita Electric Industrial Company Ltd. (MEI) was cancelled in late 1986 and production of GE brand televisions began at RCA's Bloomington plant in 1987 as the result of GE's purchase of RCA. Accordingly, the plaintiffs were not engaged in phase-out activities related to GE's 1985 decision to cease production at Portsmouth but were headquarters personnel whose functions were transferred to Indianapolis as a result GE's purchase of RCA. Further, the cancellation of the MEI contract in late 1986 would not adversely affect the remaining headquarters employees at Portsmouth in 1987.

The petitioning workers at Portsmouth had the responsibility of removing and disposing of television production equipment or worked for the Comband Product Operations (CPO). CPO was a group within the Consumer Electronics Division that was started to develop and market a line of products for the cable television industry and was not part of the initial investigation. Several of the petitioners were employees of CPO including Mr. John Graham.

In any event, the remaining workers would have been terminated much earlier had it not been for the generous benefits provided for in GE's plant closing package. These workers were guaranteed six months additional employment through GE's internal plant closing guidelines. The guidelines provided a six-month notification period, which in this instance became August 5, 1987, before the affected workers could be laid off. A few workers, however, found other employment or left voluntarily before the six month period ended.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers of the Consumer Electronic Business Operations of General Electric Company, Portsmouth, Virginia. Signed at Washington, DC, this sixth day of December 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-29245 Filed 12-12-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-177-C]

Jeff Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Jeff Coal Company, R.D. 1, Box 12A, Klingerstown, Pennsylvania 17941 has filed a petition to modify the application of 30 CFR 75.1405-1 (automatic couplers, haulage equipment) to its Tracy Vein Slope (I.D. No. 36-07328) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage cars be equipped with automatic couplers.

2. Petitioner states that the installation of automatic couplers on the track haulage cars would result in a diminution of safety to the miners affected due to the sharp radius curves in the track, the undulating pitch of the slopes, the different types of small lighweight cars, and the systems of haulage.

3. For these reasons, petitioner request a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 14, 1991. Copies of the petition are available for inspection at that address.

Dated: December 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-29246 Filed 12-12-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-174-C]

Rawl Sales and Processing Co.; Petition for Modification of Application of Mandatory Safety Standard

Rawl Sales and Processing Company, P.O. Box 722, Matewan, West Virginia 25678 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Tall Timber Mine (I.D. No. 15-13720) located in Mingo County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that seals be examined on a weekly basis.

2. Due to deteriorating roof conditions, the seals in the Northwest Mains section cannot be safely examined. To require weekly examinations of the seals would expose miners to hazardous conditions and result in a diminution of safety.

3. As an alternate method, the petitioner proposes to establish a monitoring station where the air quantity and quality would be measured.

4. In support of this request, the petitioner states that—

(a) All measuring stations and travelways would be maintained in a safe condition at all times;

(b) Tests for methane and the quantity of air would be determined weekly by a certified person at each station; and

(c) The person making such examinations and tests would place his/her initials and the date and time at each station. A record of these examinations, tests and actions taken would be recorded in a book.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 14, 1991. Copies of the petition are available for inspection at that address.

Dated: December 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-29247 Filed 12-12-90; 8:45 am]

BILLING CODE 4510-43-M

(Docket No. M-90-175-C)

Rawl Sales and Processing Co.; Petition for Modification of Application of Mandatory Safety Standard

Rawl Sales and Processing Company, P.O. Box 722, Matewan, West Virginia 25678 has filed a petition to modify the application of 30 CFR 75.329 (bleeder systems) to its Tall Timber Mine (I.D. No. 15-13720) located in Mingo County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that abandoned areas be ventilated or sealed.

2. Due to hazardous roof conditions it is not possible to repair seals No. 1 through 6 or gain access to seals Nos. 7 and 8. Efforts to rehabilitate the area would unnecessarily expose miners to hazardous roof conditions and result in a diminution of safety.

3. In lieu of repairing the seals or restoring ventilation, petitioner proposes to monitor the return air from a measuring station.

4. In support of this request, the petitioner states that—

4. (a) All measuring stations and travelways would be maintained in a safe condition at all times;

(b) Tests for methane and the quantity of air would be determined weekly by a certified person at each station; and

(c) The person making such examinations and tests would place his/her initials and the date and time at each station. A record of these examinations, tests and actions taken would be recorded in a book.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 14, 1991. Copies of the petition are available for inspection at that address.

Dated: December 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-29248 Filed 12-12-90; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL SCIENCE FOUNDATION

Division of Biotic Systems and Resources Special Emphasis Panel; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act Pub. L.

92–463, as amended), the National Science Foundation announces the following meeting

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Biotic Systems and Resources.

Dates: January 7–8, 1991; January 29–30, 1991.

Times: 8:30 a.m. to 5 p.m. each day.

Place: Rooms 536 and 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Agenda: Review and evaluate Presidential Young Investigator Applications and Faculty Awards for Woman Applications, January 7–8, 1991 (room 536); Review and evaluate Conservation and Restoration Biology Proposals, January 29–30, 1991 (Room 543).

Contact: Dr. Joann Roskoski, Program Manager, Cross-Directorate Programs, Division of Biotic Systems and Resources, National Science Foundation, room 215, Washington, DC 20550 (202/357-7332).

Dated: December 7, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–29170 Filed 12–12–90; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Design and Manufacturing Systems; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Design and Manufacturing Systems (DDM.)

Date and time: January 7–8, 1991; 9 a.m.–5 p.m., January 7; 9 a.m.–4 p.m., January 8.

Place: Radisson Plaza Hotel at Austin Centre, 700 San Jacinto, Austin, TX.

Type of meeting: Open.

Contact person: Ms. Carol Guido, Administrative Officer, DDM, room 1128, National Science Foundation, Washington, DC 20550, Telephone: (202) 357–7508.

Summary minutes: Ms. Carol Guido.

Purpose of meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to the Division of Design and Manufacturing Systems.

Summarized agenda: Discussion on issues, opportunities and future directions for the Division of Design and Manufacturing Systems; discussion of the DDM budget for FY 91, as well as other items.

Dated: December 7, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–29171 Filed 12–12–90; 8:45 am]

BILLING CODE 7555–01–M

Division of Earth Sciences; Special Emphasis Panel, Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Earth Sciences.

Date: January 7, 1991.

Time: 9 a.m. to 5 p.m.

Place: Room 248, National Science Foundation, 1800 G Street NW., Washington, DC.

Type of meeting: Closed.

Agenda: Review and evaluate Presidential Young Investigator Applications.

Contact: Dr. Arnold Silverman, Program Director, Education and Human Resources Program, National Science Foundation, room 602, Washington, DC 20550 (202–357–7958).

M. Rebecca Winkler,

Committee Management Officer.

Dated: December 7, 1990.

[FR Doc. 90–29174 Filed 12–12–90; 8:45 am]

BILLING CODE 7555–01–M

Division of Earth Sciences; Special Emphasis Panel, Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Earth Sciences.

Date: January 9, 1991.

Time: 9 a.m. to 5 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Agenda: Review and evaluate Research Experiences for Undergraduates Site Applications.

Contact: Dr. Arnold Silverman, Program Director, Education and Human Resources Program National Science Foundation, room 602, Washington, DC 20550 (202–357–7958).

Dated: December 7, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–29175 Filed 12–12–90; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panels; Meetings

SUMMARY: In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G Street NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within

exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 257-7363.

Dated: December 7, 1990.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Date(s) and time	Location
Special Emphasis Panel in Instrumentation and Resources. Agenda: Res. Exper. for Undergrad.	01/07/91 7:00 pm; 01/09/91 5:00 pm	River Inn Hotel, 924 Twenty-Fifth Street, NW, Washington, DC.
Special Emphasis Panel in Teacher Preparation and enhancement. Agenda: Statewide Sys. Initiative.	01/04/91 8:00 am-5:00 pm; 01/05/91 8:00 am-3:00 pm.	State Plaza Hotel, 2117 E Street NW., Washington, DC.
Special Emphasis Panel in Research Career Development. Agenda: NSF-NATO Postdoc. Panel.	01/03/91 7:30 pm-9:00 pm; 01/05/91 8:00 am-5:00 pm.	Sir Francis Drake Hotel, 450 Powell Street, San Francisco, CA.

Committee name	Agenda	Date(s)	Times	Room [1]
Special Emphasis Panel in Behavioral and Neural Sciences	Prin. Young Invest. Panel	01/07/91 01/08/91	8:30 am-5:00 pm 8:30 am-5:00 pm	1242
Special Emphasis Panel in Behavioral and Neural Sciences	Faculty Awards for Women	01/10/91 01/11/91	8:30 am-5:00 pm 8:30 am-5:00 pm	1243
Special Emphasis Panel in Biological and Critical Systems	PYI Panel	01/08/91	8:30 am-5:00 pm	1133

[1] At 1800 G Street NW., Washington, DC.

[FR Doc. 90-29176 Filed 12-12-90; 8:45 am]

BILLING CODE 7555-01-M

Mathematical Sciences Postdoctoral Research Fellowship Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Mathematical Sciences Postdoctoral Research Fellowship Panel.

Date and time: January 4, 1991 (8:30 a.m. to 10 p.m.) and January 5, 1991 (8:30 a.m. to noon).

Place: American Mathematical Society, 201 Charles Street, Providence, RI 02904.

Type of meeting: Closed.

Contact person: Dr. Deborah F. Lockhart, Office of Special Projects, Division of Mathematical Sciences, National Science Foundation, room 339, 1800 G Street, NW., Washington, DC 20550, (202) 357-7438.

Purpose of meeting: To evaluate applications and provide recommendations on those applications as part of the selection process for the NSF Mathematical Science Postdoctoral Research Fellowship program.

Agenda: Discussion and evaluation of and recommendations for applications for Mathematical Sciences Postdoctoral Research Fellllowships.

Reason for closing: The applications being reviewed include information of a confidential nature, including technical information and personal information concerning individuals associated with the applications. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

December 7, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-29173 Filed 12-12-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Mechanical and Structural Systems; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for the Division of Mechanical and Structural Systems.

Date and time: January 7, 1991, 1 p.m. to 5 p.m.; January 8, 1991, 8:30 a.m. to 4 p.m.

Place: Radisson Plaza Hotel, 700 San Jacinto Blvd, Austin, TX.

Type of meeting: Open.

Contact person: Ms. Hope Duckett, National Science Foundation, Room 1108, Washington, DC 20550, Telephone (202) 357-9542.

Summary of minutes: May be obtained from Contact Person.

Purpose of meeting: To advise the Division in the areas of Mechanical and Structural Systems.

Agenda:

Monday, January 7, 1991

1-5 p.m.—General Mechanical and Structural Systems Review

Tuesday, January 8, 1991

8:30-12 Noon—Joint Meeting with Division of Design and Manufacturing Systems

12-1:30 p.m.—Lunch

1:30-4 p.m.—General Discussion Draft Report Review Plans for Next Meeting

4—Adjourn.

Dated: December 7, 1990.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 90-29172 Filed 12-12-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR parts 2, 40, 70, and 74 Material Control and Accounting for Uranium Enrichment Facilities Authorized to Produce Special Nuclear Material of Low Strategic Significance.

3. *The form number if applicable:* NRC Form 327.

4. *How often is the collection required:* Collection of a Fundamental Nuclear Material Control (FNMC) plan, 2 years prior to facility startup; NRC Form 327, 60 days after the start of an inventory six times per year; Report of theft, loss, unlawful diversion of special nuclear material, or unauthorized production of enriched uranium, within 1 hour of discovery. Reports of excessively large inventory differences are collected at the same estimated frequency.

5. *Who will be required or asked to report:* Applicants for license or

licensees authorized to possess equipment capable of enriching uranium or to operate an enrichment facility and produce, possess, or use more than one effective kilogram of special nuclear material of low strategic significance.

6. An estimate of the number of responses: 11.

7. An estimate of the number of hour annually needed to complete the requirement or request: 19,954 hours (1,814 hours per response).

8. An indication of whether section 3504(h), Public Law 96-511 applies: Applicable.

9. Abstract: The proposed rule would require an applicant for license or a licensee authorized to possess equipment capable of enriching uranium or operate an enrichment facility, and produce, possess, or use more than one effective kilogram of special nuclear material of low strategic significance, to develop, document, and maintain a material control and accounting program. The program will be subject to NRC approval.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minisk, Paperwork Reduction Project (3150-0123, and 3150-0009), Office of Information and Regulatory Affairs, NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 6th day of December, 1990.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Designated Senior, Official for Information Resources Management.

[FR Doc. 90-29202 Filed 12-12-90; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC)

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. *Type of submission:* Extension.
2. *The title of the information collection:* Proposal Preparation Instructions.
3. *The form number if applicable:* N/A.
4. *How often the collection is required:* Once during the solicitation process.
5. *Who will be required or asked to report:* NRC Contractors.
6. *An estimate of the number of responses:* 750.
7. *An estimate of the total number of hours needed to complete the requirement or request:* 100.
8. *An indication of whether section 3504(h), Public Law 96-511 applies:* Not Applicable.
9. *Abstract:* Proposal Preparation Instructions are included in Section L of NRC solicitations for research and technical assistance to inform offerors of proposal content, presentation and format required by NRC. These instructions serve as a guide for offerors in preparing a technical and management proposal, and a cost proposal. These instructions also establish uniformity and facilitate proposal evaluation.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Paperwork Reduction Project (3150-0118), Office of Information and Regulatory Affairs, NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 4th day of December 1990.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Designated Senior Official for Information Resources Management.

[FR Doc. 90-29203 Filed 12-12-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana Michigan Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 151 to Facility Operating License No. DPR-58, issued to the Indiana Michigan Power Company, (the licensee), which revised the Technical Specifications (TS) for operation of the Donald C. Cook Nuclear Plant, Unit No. 1, located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment permits the use of approved sleeves to repair defective steam generator tubes. The TS previously required that all defective tubes be plugged and removed from service.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act, and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on October 19, 1990 (55 FR 42526). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated June 27, 1990 and supplemented by letter dated October 9, 1990, (2) Amendment No. 151 to License No. DPR-58, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, 20555 and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III/IV/V.

Dated at Rockville, Maryland this 5th day of December 1990.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Project Directorate III-1 Division of Reactor Projects III/IV/V Office of Nuclear Reactor Regulation.

[FR Doc. 90-29200 Filed 12-12-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric and Power Co.; Surry Power Station, Unit 1; Exemption

I

The Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License No. DPR-32, which authorizes operation of the Surry Power Station, Unit 1. The licensee provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The Surry facility consists of two pressurized water reactors at the licensee's site located in Surry County, Virginia. This exemption addresses only Surry, Unit 1.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new appendix R to 10 CFR part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and appendix R became effective on February 17, 1981. Section III of appendix R contains 15 subsections, lettered A through 0, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these 15 subsections, III.0., is the subject of this exemption request. Specifically, subsection III.0. requires that each reactor coolant pump (RCP) have an oil collection system capable of collecting oil from potential pressurized and non-pressurized leakage sites and routing it to a vented, closed container of sufficient capacity to hold the entire lube oil system inventory.

III

By letter dated November 14, 1990, the licensee requested a one-time exemption from the requirements of Subsection III.0 of appendix R, for one of the three RCPs at Surry, Unit 1.

Prior to the shutdown for refueling at the end of Operating Cycle 10 on October 8, 1990, the Surry, Unit 1 RCP motor oil collection system satisfied the requirements of Subsection 0. The Unit 1 "C" RCP motor required a routine, 5-year refurbishment at the end of Operating Cycle 10. This required that the RCP motor be shipped to an offsite facility. A replacement motor was purchased for the "C" pump; however, certain components of the new RCP motor have a different physical configuration than the motor which was removed. Because of the configurational differences, the RCP oil collection system from the original "C" motor cannot be fitted to the new motor without extensive modifications, which cannot be made available within the current Cycle 10 refueling outage. Consequently, a one-time exemption was requested from Subsection III.0 to permit an interim oil collection method in conjunction with other compensatory measures to mitigate the consequences should an oil fire occur. The exemption would be effective through Operating Cycle 11, which is currently scheduled to commence on December 5, 1990 and end in February 1992.

The acceptability of the exemption request is addressed below. More details are contained in the NRC staff's related Safety Evaluation dated December 6, 1990.

Reactor Coolant Pump Oil Collection System

The licensee, for this cycle of operation, has proposed an interim oil collection method for the "C" pump motor. This Method consists of implementing certain fire protection modifications in the "C" RCP/steam generator cubicle in conjunction with compensatory measures. Through implementation of this method, the licensee with detect potential lube oil system leakage in the spare RCP motor by an increase in motor temperature and any leakage which does occur will be confined and contained in the "C" RCP/steam generator cubicle.

The "C" cubicle is located southeast of the reactor vessel. The cubicle has a concrete base at the minus 3 ft. 6 in. elevation with the concrete walls extending up to the 47 ft. 4 in. elevation. The access doors to this cubicle are located at the minus 3 ft. 6 in. and the 18 ft. 6 in. elevations. In addition, there are penetrations in the walls and the floor of the cubicle. This cubicle is located adjacent to the cable penetrations from the cable vault. The licensee, in order to contain any potential oil leakage from the "C" motor or a fire condition in the "C" cubicle, has implemented the following additional interim fire protection modifications:

—Four-inch oil-tight dikes have been installed at the door openings;
—Pipes which penetrate the cubicle floor are sleeved. The piping sleeves extend 4 in. above the floor of the cubicle. The pipes which extend from the sleeves are provided with either a spray cover or the penetration is filled with a liquid-tight fire-rated penetration sealant material;
—A heat detector has been installed above the "C" RCP motor. This detector is annunciated in the control room;
—The "C" cubicle is separated from the cable penetration area by the crane wall. The open penetration in the crane wall will be sealed with fire-rated penetration sealant material; and
—Spray shields will be installed as necessary to prevent high pressure oil spray from impinging on hot reactor coolant system (RCS) piping.

In addition to the above fire protection modifications, the licensee will maintain the following compensatory measures during the operation phase of Cycle 11:

—RCP motor bearing temperature increase is an indication of an oil leak. Therefore, the licensee will conduct more frequent surveillance of the "C" RCP motor temperature-related parameters;
—Plant procedures will be revised prior to startup to address operator actions and their expected response to adverse motor temperature conditions (e.g., containment entry to assess the reason for the temperature condition, shutdown of the pump, response of the fire brigade);
—Additional fire brigade briefings will be held on the potential for a fire in the "C" cubicle and on the means to mitigate a fire in this area; and
—Additional foam fire suppression equipment will be maintained outside the containment. This equipment, to be used by the fire brigade in the event of a lube oil fire, will be located near the containment access hatch.

Based on our evaluation of the licensee's proposed interim oil collection method and compensatory measures, we agree that if a lube oil system failure leading to a leak and a subsequent fire were to occur in the "C" RCP motor, the consequences of the fire would be mitigated and the plant's ability to achieve safe shutdown conditions would not be affected.

Therefore, the staff concludes that the licensee's interim oil collection method, consisting of temporary fire protection modifications, compensatory measures, and the partially installed oil collection system as described above, results in an acceptable fire hazard level which is essentially equivalent to that which existed with the permanent oil collection system. The staff also concludes that this method provides reasonable assurance that any potential

lube oil leakage from the "C" RCP motor will be adequately controlled and contained within the "C" RCP/steam generator cubicle. The staff finds the licensee's request to operate the "C" RCP, with an interim oil collection method in place for Cycle 11 to be acceptable and, therefore, the licensee's request for exemption is granted.

IV

Pursuant to 10 CFR 50.12(a)(2)(v), the licensee must have made good faith efforts to comply with the regulation. The NRC staff believes that VEPCO could not have reasonably foreseen the configurational incompatibility between the existing and replacement "C" pump motors and has taken appropriate measures to mitigate the effects of this incompatibility.

Based on our evaluation, the NRC staff has concluded that special circumstances as described in 10 CFR 50.12(a)(2)(v) exist, in that the exemption would provide only temporary relief from the applicable regulation, and VEPCO has made good faith efforts to comply with the requirements of appendix R.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest, and hereby grants an exemption from the requirements of Subsection III.O of Appendix R to 10 CFR Part 50 to the extent discussed in Section III above. This exemption will be effective for the duration of Operating Cycle 11 for Surry, Unit 1, which is currently scheduled to end in February 1992.

Pursuant to 10 CFR 51.32 the Commission has determined that the granting of this exemption will not result in any significant environmental impact (55 FR 50256).

A copy of the licensee's request for exemption dated November 14, 1990, as well as the staff's associated Safety Evaluation dated December 6, 1990, are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC., and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

This exemption is effective upon issuance and will expire at the end of Operating Cycle 11.

Dated at Rockville, Maryland this 6th day of December, 1990.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-29199 Filed 12-12-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-842]

Wolf Creek Nuclear Operating Corp. (Wolf Creek Generating Station); Exemption

I

The Wolf Creek Nuclear Operating Corporation (WCNOC) is the holder of Operating License No. NPF-42, which authorizes the operation of the Wolf Creek Generating Station. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility is a pressurized water reactor at the licensee's site located in Coffey County, Kansas.

II

Pursuant to 10 CFR 55.59(a)(1), "each licensee shall successfully complete a requalification program developed by the facility licensee that has been approved by the Commission. This program shall be conducted for a continuous period not to exceed 24 months in duration."

III

By letter dated September 18, 1990, the licensee requested an exemption from the requirement to extend the WCNOC licensed Operator Requalification Training Program cycle to be better aligned with the National Exam Schedule. The exemption from the requirements of the regulation would therefore be for a period of about 2 months.

Pursuant to 10 CFR 55.11, "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest."

IV

Currently, the WCNOC Licensed Operator Requalification Training Program begins on October 1 of even years. This one-time exemption would permit the current requalification program that began in October 1988 to be extended to 26 months so that operator examinations could be aligned with the National Exam Schedule promulgated in Generic Letter 89-03. An April and an October examination date was established for Wolf Creek. This exemption will also result in a permanent adjustment of the WCNOC requalification training program starting date to December 1 of even years.

V

The staff has concluded that issuance of this exemption will not endanger life or property and will have no significant effect on the safety of the public or the plant.

Pursuant to 10 CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** on November 7, 1990 (55 FR 46878). Accordingly, based upon the environmental assessment, the Commission has determined that the issuance of this exemption will not have a significant effect on the quality of the human environment.

Accordingly, the Commission has determined, pursuant to 10 CFR 55.11, that an exemption as described in Section III is authorized by law, will not endanger life or property and is otherwise in the public interest. Therefore, the Commission hereby grants the following exemption:

The Wolf Creek Nuclear Operating Corporation is exempt from the requirements of 10 CFR 55.59(a)(1) for a period of October 1990 to December 1990 with respect to the 24-month requalification program.

For further details with respect to this action, see the licensee's request dated September 18, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC; at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801; and at the Washburn University School of Law Library, Topeka, Kansas 66621.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 6th day of December 1990.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 90-29201 Filed 12-12-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Expedited Review of OPM Form 1417 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a proposed information collection, Combined Federal Campaign Results Code Sheet, OPM Form 1417. This form is completed annually by the local principal combined fund organizations, and is used by the Office of Personnel Management to compute the campaign contributions.

Approximately 500 forms are completed annually, each requiring an estimated one hour to complete, for a total public burden of 500 hours. For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received within 5 calendar days from the date of this publication.

ADDRESS: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, OIRA, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jeremiah J. Barrett, (202) 606-2564.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-29208 Filed 12-12-90; 8:45 am]

BILLING CODE 6325-01-M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Mid-Year Meeting of Commissioners

AGENCY: President's Commission on White House Fellowships.

ACTION: Notice of mid-year meeting of the President's Commission on White House Fellowships, closed to the public.

SUMMARY: Notice is hereby given that the mid-year Meeting of the President's Commission on White House Fellowships will be held at the Mayflower Hotel, Washington, DC, on January 28, 1991, beginning at 9 a.m.

The mid-year Meeting is convened for one day to review the overall operation of the program, including budgetary, recruitment and publicity issues, and to provide the Commissioners an opportunity to discuss new initiatives that will further improve the program.

It has been determined by the Director of the Office of Personnel Management that because of the confidential nature of the meeting, where criteria for the selection of future candidates is discussed, as well as the progress of members of the current class of White House Fellows, which, if revealed to the public would constitute a clear invasion of the individual's professional privacy, the content of this meeting falls within the provisions of section 552b(c) of title 5 of the United States Code. Accordingly, this meeting is closed to the public.

DATES: The date of the mid-year Meeting of the President's Commission on White House Fellowships, which is closed to the public, is January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Phyllis Byrne, Associate Director, President's Commission on White House Fellowships, 712 Jackson Place, NW., Washington, DC 20503, (202) 395-4522.

Dated: December 19, 1990.

Marcy L. Head,

Director, President's Commission on White House Fellowships.

[FR Doc. 90-29207 Filed 12-12-90; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

(Rel. No. 34-28676; File No. SR-OCC-90-11)

Self-Regulatory Organizations; the Options Clearing Corporation; Proposed Rule Change Relating to Defining New Types of Market-Maker, Specialist, and Registered Trader Accounts

December 4, 1990.

Pursuant to section 19(b)(1), of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 11, 1990, The Options Clearing Corporation ("OCC"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which terms have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC proposes to amend its By-Laws and Rules to add several new definitions relating to types of accounts maintained by clearing members on behalf of market-makers, specialists, or registered traders. Under this proposal, OCC would add to its current account structure a "Proprietary Market-Maker Account." The proposed rule change makes other conforming changes to OCC's By-Laws relating to maintenance of accounts and OCC's Rules relating to margin requirements, pledge accounts, and liquidations. The proposed rule change additionally makes conforming changes to several existing account agreements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In General

The purpose of the proposed rule change is to exclude from the combined market-makers' account the exchange transactions and positions of market-makers, specialists, or registered traders who are directly or indirectly related to or associated with the carrying clearing member ("Associated Market-Makers"). The exclusion of Association Market-Makers from the combined market-makers' account will increase the likelihood that OCC will be able to transfer rather than liquidate the positions of unrelated market-makers in such an account in the event of default by the carrying clearing member. An Associated Market-Maker that is excluded from a combined market-maker's account would be permitted to maintain a separate market-maker's account limited to the market-maker's own positions and transactions. The rule change would also permit an Associated Market-Maker to be included in a "Proprietary Market-Maker Account" under certain circumstances as described below.

The proposed rule change adds definitions in Article I of OCC's By-Laws, amends section 3 of article VI of OCC's By-Laws, and makes conforming changes to OCC's Rules relating to margin requirements, pledge accounts, and liquidation procedures.

Exclusion of Associated Market-Makers From the Combined Market-Makers' Account

Section 3(c) of article VI of OCC's By-Laws presently permits a clearing member to maintain a combined market-makers' account. A combined market-makers' account is confined to the exchange transactions and positions of market-makers who have consented to the commingling of their positions with those of other market-makers. Section 3(c) specifically excludes the participation of the clearing member in a combined market-makers' account, and

OCC's form of account agreement also excludes any other "non-customer" of the clearing member from the combined market-makers' account.

"Non-customer" is defined in article I of OCC's By-Laws to include, in addition to the clearing member itself, only those categories of persons who are specifically enumerated as excluded from the definition of customer in the Commission's hypothecation rules.[1] Under OCC's definition, non-customer includes "any general or special partner of the Clearing Member, any officer or director of the Clearing Member, or any participant, as such, in any joint, group, or syndicate account with the Clearing Member or with any partner, officer or director thereof." Because the definition of "no-customer" is so narrow, OCC's current rules permit a market-maker that is closely related to a clearing member to include its positions in a combined market-makers' account with the positions of unrelated market-makers.

In light of its recent experience in the 1989 market break, OCC believes that the commingling of positions of Associated Market-Makers with those unrelated market-makers significantly increases risks to unrelated market-makers, to OCC, and to the options markets. Such Associated Market-Makers may be financially dependent upon the clearing member or under common direction with respect to trading strategies and risk management. In the event of the failure of the clearing member, the conditions which led to such failure may also lead to the insolvency of the Associated Market-Maker. If the Associated Market-Maker's positions are maintained in a combined market-makers' account, OCC may be unable to transfer the unrelated market-makers' positions, even though they continue to be viable, because it may be unable to separate the collateral supporting the positions in the combined account. This situation increases risk to OCC. OCC believes that the segregation of such accounts will decrease the risk exposure of the unrelated market-makers in the event of a failure of a clearing member and will facilitate OCC's ability to transfer expeditiously viable accounts to other clearing members.

Accordingly, OCC is proposing to add a definition of Associated Market-Maker to article I of the By-Laws and to amend paragraph (c) of section 3 of article VI of the By-Laws to both exclude such Associated Market-Makers from the combined market-makers' account and to make clear OCC's existing interpretation that all non-customers of the clearing member are also excluded. A parallel change is being made in paragraph (e) of section 3 of article VI with respect to combined registered traders' accounts. The definition of Associated Market-Maker includes market-makers, specialists, stock market-makers, stock specialists, and registered traders who are closely related to the clearing member but who are neither defined as "non-customers" under OCC's By-Laws nor expressly excluded from the definition of "customer" under the hypothecation rules. The definition includes affiliated entities of the clearing member (*i.e.*, subsidiaries, parents, and collateral affiliates) as well as certain individuals closely associated with the clearing member's business. Each entity included in the definition is an entity that would be defined as the holder of a "proprietary account" under paragraph (y) of § 1.3 of the General Regulations of the Commodity Futures Trading Commission ("CFTC").

Other Changes

Each Associated Market-Maker that is excluded from the combined market-makers' account as a result of the proposed rule change would be eligible to maintain its positions in a separate market-maker's account established under paragraph (b) of section 3 of article VI of OCC's By-Laws or, in the case of a registered trader, in a separate registered trader's account under paragraph (e) of section 3 thereof. Unless the Associated Market-Maker elects to be treated as a "Proprietary Market-Maker" as discussed below, the position of an Associated Market-Maker that are maintained in a separate market-maker's account would not be commingled with positions of other market-makers or of the firm.

The disadvantage to the clearing member of maintaining positions in separate market-maker's accounts rather than in the combined market-makers' account is the clearing member's margin requirements at OCC may be substantially increased because of the resulting inability to offset one market-maker's positions against those of another market-maker for the purpose of calculating the clearing member's margin requirements. The clearing member's higher margin costs may in turn be passed on to the Associated Market-Maker. Accordingly, some clearing members and their Associated Market-Makers may prefer to have the Associated Market-Maker's positions treated as proprietary and, therefore, potentially reduce margin requirements. OCC proposes to accomplish this by including Associated Market-Maker positions in a separate Market-Maker's account that is designated as a Proprietary Market-Maker Account. Paragraph (b) of section 3 of article VI currently provides that a clearing member may maintain any number of separate market-maker's accounts, each of which is confined to the transactions of a single market-maker and, therefore, does not ordinarily result in the commingling of positions. If, however, a separate market-maker's account is maintained for positions of the clearing member acting in its capacity as market-maker or specialist, the clearing member may elect to have the positions in that account combined for margin purposes with the positions carried in the clearing member's firm account. Such a market-maker's account is defined in paragraph (uuuu) of section 1 of VI of OCC's By-Laws. Amendments are made to rules 601, 602A, and 1105 to incorporate the Proprietary Market-Maker Account.

Although such commingling of firm and Associated Market-Maker positions would ordinarily be prohibited under the hypothecation rules because of the narrow definition of non-customer, the Commission's Division of Market Regulation has indicated to OCC that it would probably take a "no action" position with respect to such commingling under circumstances where the Associated Market-Maker: (i) Is not a "customer" of the clearing member for purposes of rule 15c3–3; [2] (ii) does not carry the accounts of customers; and (iii) consents to having its account treated as the account of a non-customer. Accordingly, the proposed new definition of Proprietary Market-Maker would include certain Associated Market-Makers who meet the conditions specified above and would also make explicit OCC's existing interpretation that a Proprietary Market-Maker Account can be maintained by any non-customer of the clearing member as well as by the clearing member itself. Paragraph (b) of section 3 of article VI is proposed to be amended to clarify OCC's lien on such Proprietary Market-Maker Account.

An additional advantage of allowing Associated Market-Makers to elect to be treated as Proprietary Market-Makers is that such persons might otherwise be excluded from participation in the cross-margining programs. A market-maker whose account is defined as "proprietary" under CFTC regulations but who is nevertheless a "customer" for purposes of the hypothecation rules might be excluded from participation in

[1] 17 CFR 240.8c–1 and 240.15c2–1.

[2] 17 CFR 240.15c3-3.

the proprietary cross-margining program.[3] The proposed rule change would, therefore, facilitate cross-margining. Changes to paragraph (e) of section 3 regarding accounts of registered traders and changes to pertinent rules relating to margin requirements (rules 601 and 602A), pledge accounts (rule 614), and liquidations (rule 1105) are simple conforming changes.

Conforming changes also are made to the following existing agreements: market-maker's, specialist's, or registered trader's account agreement; joint account agreement for market-makers, specialists, and registered traders; combined market-makers', specialists, or registered traders' account agreement; and pledge account agreement. OCC is also proposing to use a new form entitled "Associated Market-Maker Consent" which would be executed by those Associated Market-Makers who are eligible and elect to combine their positions with the clearing member's proprietary market-maker positions. Market-makers who are affected by this proposed rule change would be required to submit new market-maker account agreements to OCC. Market-makers who are not affected by this rule change would not be required to execute new forms of agreements. These agreements further are amended to permit OCC to engage in certain "hedging transactions" with respect to all accounts provided for therein. This last amendment conforms to SR-OCC-87-22 which the Commission approved on August 8, 1989.[4]

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act, as amended, because it promotes the protection of public investors and the public interest by enhancing OCC's liquidation procedures and by affording increased protection to market-makers.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

[3] Securities Exchange Act Rel. No. 27296 (September 26, 1989), 54 FR 41195. OCC has filed a proposal that would expand the OCC/Chicago Mercantile Exchange cross-margining program to include the accounts of market-makers, specialists, and floor traders. Securities Exchange Act Rel. No. 27717 (February 21, 1990), 55 FR 7398.

[4] Securities Exchange Act Rel. No. 27104 (August 8, 1989), 54 FR 33642.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and have not been received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to file number SR-OCC-90-11 and should be submitted by January 3, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-29205 Filed 12-12-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28677; File No. SR-PTC-90-04]

December 4, 1990.

Self-Regulatory Organizations; Participants Trust Co.; Order Approving Proposed Rule Change Relating to the Rebate of Fees

I. Introduction

On October 3, 1990, the Participants Trust Company ("PTC") filed a proposed rule change (File No. SR-PTC-90-04) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on October 24, 1990, to solicit comments from interested persons.[2] No comments were received. As discussed below, this order approves the proposal.

II. Description of the Proposal

PTC's proposal adopts a policy pertaining to the rebate of revenues. Specifically, the proposal provides that PTC may return revenues [3] to its participants should its Board of Directors deem it appropriate. Generally, a decision to rebate revenues will be based upon fiscal considerations such as whether PTC will show positive, post-rebate earnings, whether post-rebate revenues will cover sufficiently PTC's financial needs, and whether PTC should pay dividends on its outstanding capital stock. As proposed, any category of PTC participant may be eligible for a revenue rebate. However, once PTC makes a decision to rebate revenues, the rebate formula pertaining to each individual participant will be based upon the amount of fees and other charges the participant has remitted to PTC.

The text of the proposed rule change, which will exist in the form of a Board of Director's Resolution, is as follows:

The Board of Directors of Participants Trust Company may decide from time to time to return revenues received from its Participants, Limited Purpose Participants or participants of any other category of participant to those participants based upon such considerations as the Board of Directors deems relevant, including projected earnings of PTC in the event of the return of revenues or in the absence thereof, the projected financial needs of PTC and the desirability of

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Rel. No. 28552 (October 18, 1990), 55 FR 42927.

[3] The term "revenues" includes all fees and charges that PTC collects from its participants plus interest generated from holding funds received. For purposes of is proposal, PTC uses the terms "fees" and "revenues" interchangeably.

paying dividends on PTC's outstanding capital stock.

III. PTC's Rationale for the Proposal

PTC has indicated that since it cannot predict the volume of its business, it may, during periods of higher than anticipated activity or for other reasons, have revenues in excess of its needs. PTC believes that it should have the ability to return the excess revenues to its participants should the Board of Directors decide it is appropriate. Additionally, PTC believes that returning revenues to its participants in this manner is consistent with the requirement under section 17A(b)(3)(D) of the Act that the rules of a registered clearing agency provide for the equitable allocation of dues, fees, and other charges.

IV. Discussion

The Commission believes that PTC's proposed rule change is consistent with the Act and, in particular, with section 17A of the Act. Accordingly, for the reasons discussed below, the Commission is approving the proposal.

The Commission concurs with PTC's opinion that the proposal is consistent with section 17A(b)(3)(D) of the Act. As noted above, that section provides that a registered clearing agency must provide for the equitable allocation of dues, fees, and other charges among its participants. A PTC is essentially a not-for-profit entity,[4] it need not accumulate revenues in excess of that needed to maintain positive earnings, remain solvent, pay its bills when due, and pay reasonable dividends. Revenues generated that exceed these fundamental requirements should be returned to PTC's participants. The Commission believes that the proposal will aide PTC in providing an equitable allocation charges among PTC participants in accordance with the Act.

It should be noted, though, the Commission believes in order for the proposal to be consistent with section 17A(b)(3)(D), the size of an individual participant's rebate should be rationally related to is level of participation. Thus, individual rebates should be calculated using a formula that applies equitably to all of PTC's participants. The Commission believes that the formula proposed by PTC (i.e., using the amount of fees and other charges a participant has remitted to PTC as a basis for that participant's rebate) represents such an equitable method for the allocation of revenue rebates to individual participants.

V. Conclusion

For the reasons stated above, the Commission finds that PTC's proposal is consistent with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that PTC's proposed rule change (SR-PTC-90-04) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[FR Doc. 90-29206 Filed 12-12-90; 8:45 am]

BILLING CODE 8010-01-M

[4] Registered clearing agencies are service companies owned by members of the financial industry. The primary mission of a clearing agency is to reduce the cost of services offered to the public by its participants. Hence, the "not-for-profit" designation.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Chicago Board Option Exchange, Incorporated

December 7, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Societe Generale
CAC-40 (File No. 7-6429)
Paine Webber
CAC-40 Call Warrant (File No. 7-6430)
Paine Webber
CAC-40 Put Warrant (File No. 7-6431)
Salomon, Inc.
SFT.WS—FT-SE Put Warrant (File No. 7-6432)
Salomon, Inc.
FTP.WS—FT-SE Put Warrant (File No. 7-6433)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 31, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-29146 Filed 12-12-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for hearing; Cincinnati Stock Exchange, Incorporated

December 7, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Centura Banks, Inc.
Common Stock, No. Par Value (File No. 7-6434)
CIPSCO, Inc.
Common Stock, No. Par Value (File No. 7-6435)
Frontier Insurance Group, Inc.
Common Stock, $0.01 Par Value (File No. 7-6436)
NWNL Companies, Inc.
Common Stock, No. Par Value (File No. 7-6437)
Robertson Ceco, Corp.
Common Stock, $.01 Par Value (File No. 7-6438)
Alliance Tech Systems, Inc.
Common Stock, $0.01 Par Value (File No. 7-6439)
American Government Term Trust, Inc.
Common Stock, $0.01 Par Value (File No. 7-6440)
Church & Dwight Co., Inc.
Common Stock, $1.00 Par Value (File No. 7-6441)
Colonial High Income Municipal Trust
Common Stock, No. Par Value (File No. 7-6442)
ESCO Electronic Corp.
Common Stock, No. Par Value (File No. 7-6443)
Latin American Investment Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7-6444)
Mexico Equity & Income Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7-6445)
MFS Government Markets Income Trust
Common Stock, No. Par Value (File No. 7-6446)
Nuveen California Muncipal Market Opportunity Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6447)

Patriot Select Dividend Trust
Common Stock, No. Par Value (File No. 7-6449)
Prudential Strategic Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6450)
Singapore Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-6451)
Strum Ruger & Co., Inc.
Common Stock, $1.00 Par Value (File No. 7-6452)
Vintgage Petroleum, Inc.
Common Stock, $0.01 Par Value (File No. 7-6453)
Western Union Company
Preferred A Stock, No. Par Value (File No. 7-6454)
American Realty Trust, Inc.
Common Stock, $0.01 Par Value (File No. 7-6455)
Conner Peripherals, Inc.
Common Stock, No. Par Value (File No. 7-6456)
Micron Technology, Inc.
Common Stock, $0.10 Par Value (File No. 7-6457)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 31, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 90-29147 Filed 12-12-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1303]

Exports of Defense Articles to Germany

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: In light of the unification of Germany on October 3, 1990, the Department of State is revising its policy regarding applications for exports of defense articles and defense services to the geographical region previously known as East Germany.

EFFECTIVE DATE: November 15, 1990.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Chief, Licensing Division, Office of Defense Trade Controls, Center for Defense Trade, Department of State (703-875-6644).

SUPPLEMENTARY INFORMATION: In light of the unification of Germany on October 3, 1990, the Department of State has decided to revise its policy regarding applications for exports of defense articles and defense services to the geographical region previously known as the German Democratic Republic or East Germany.

As provided in § 126.1 of the International Traffic in Arms Regulations, it has been the policy of the Department of State to deny license applications and other approvals with respect to defense articles and defense services destined for or originating in certain countries, including East Germany. Since East Germany as a sovereign entity ceased to exist on October 3, 1990, the Department of State is now considering applications for exports to end users and uses throughout the newly unified Germany. Circumstances require, however, that applications involving end use/end users in the former GDR be reviewed with particular attention to export control mechanisms in place in that territory.

With respect to licenses previously granted for exports to the Federal Republic of Germany, the Department of State notes that such licenses were issued for a stated end use and end user. Any proposed change in end use/end user therefore requires the prior approval of the Department of State.

The Department of State is currently reviewing all outstanding licenses and approved manufacturing license and technical assistance agreements involving the FRG. Any additional provisos or restrictions deemed necessary for such license or approvals will be notified directly to the individual exporters concerned.

Dated: December 4, 1990.

Charles A. Duelfer,
Director, Center for Defense Trade, Bureau of Politico-Military Affairs.

[FR Doc. 90-29184 Filed 12-12-90; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Secretarial Determination; Provision of Aviation Insurance Coverage for Commercial Air Carrier Service.

December 7, 1990.

By virtue of the authority vested in me by Presidential Determination No. 90-29, issued August 14, 1990, and Presidential Determination 90-32, issued August 17, 1990, and by virtue of the authority set forth in section 1302 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. App. 1532,

I hereby:

1. Determine, on behalf of the President, that continuation of commercial air services to and from Saudi Arabia, Turkey, Syria, Jordan, Egypt, Yemen, Oman, United Arab Emirates, Israel, Bahrain, Qatar, and Cyprus, and to and from Iraq and Kuwait to the extent permitted by Executive Orders Nos. 12724 and 12725, is necessary to carry out the foreign policy of the United States. Such commercial air services facilitate, in particular, actions in support of the United States and international response to the Iraqi invasion of Kuwait and the evacuation of American citizens from areas affected by the invasion. These services facilitate, in addition, the maintenance of normal political and commercial exchange with the countries of the region.

2. Approve, on behalf of the President, the Department of Transportation's provision of insurance against loss of damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided in title XIII of the Act, 49 U.S.C. App. 1531, *et seq.*, whenever I have determined that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States.

These actions are taken in consultation with the Secretary of State with respect to section 1302 (a) and (c) of the Act, 49 U.S.C. App. 1532 (a) and (c), and in consultation with the Director of the Office of Management and Budget with respect to section 1302(c) of the Act, 49 U.S.C. App. 1532(c). Pursuant to section 1302(c) of the Act, 49 U.S.C. App. 1532(a), this Determination is effective for sixty days.

This Determination shall be brought to the attention of all air carriers within the meaning of section 101(3) of the Act, 49

U.S.C. App. 1301(3), and published in the Federal Register.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 90-29210 Filed 12-12-90; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Privacy Act of 1974; System of Records

AGENCY: Department of the Treasury, Fiscal Service, Bureau of the Public Debt.

ACTION: Notice of proposed amendment to the routine uses for the system of records Treasury/BPD .001—Personnel and Administrative Records.

SUMMARY: The Bureau of the Public Debt, Department of the Treasury, proposes to amend routine use number five of its system of records Treasury/BPD .001—Personnel and Administrative Records, last published on March 1, 1988, at 53 FR 6469.

DATES: The proposed amended routine use will become effective, without further notice, 30 days from the date of this publication (January 14, 1991) unless comments dictate otherwise.

ADDRESSES: Comments may be sent to D. Louise Bennett, Disclosure Officer, Room 553, E Street Building, Bureau of the Public Debt, Washington, DC 20239-0001. Copies of all written comments will be available for public inspection and copying at the Department of the Treasury Library, Room 5030, Main Treasury Building, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: D. Louise Bennett, Disclosure Officer, (202) 376-4307.

SUPPLEMENTARY INFORMATION: The Bureau of the Public Debt proposes to amend this routine use, which now states that a record or information from a record maintained in system Treasury/BPD .001 may be disclosed to creditors or potential creditors to verify debt complaints or employment data. By this amendment Public Debt will clarify the language and expand the categories of entities to which information may be disclosed to include landlords and potential landlords. In addition, Public Debt will make clear that the disclosures under this routine use include information about salary. These types of disclosures are made when inquiries are made by a bank, loan company, landlord, or other such entity or individual to Public Debt's Personnel Offices requesting information needed by the entity or individual because the Public Debt employee is involved in the securing of a loan, mortgage, apartment rental, etc., from the entity or individual. The amended routine use will not infringe upon any individual's privacy rights because of the security protections and the disclosure restrictions imposed by the Privacy Act.

Dated: December 5, 1990.

Linda M. Combs,

Assistant Secretary of the Treasury (Management).

Treasury/BPD .001

System name:

Personnel and Administrative Records—Treasury/BPD.

* * * * *

Description of the change: Change routine use (5) to read as follows:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

(5) To creditors, potential creditors, landlords and potential landlords when they request employment data or salary information for purposes of processing the employee's loan, mortgage, or apartment rental application. When information is requested by telephone, only verification of information supplied by the caller will be provided.

* * * * *

[FR Doc. 90-29132 Filed 12-12-90; 8:45 am]

BILLING CODE 4810-40-M

Office of Thrift Supervision

Atascosa Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Atascosa Federal Savings Bank, Jourdanton, Texas, on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29215 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

Edison Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners's Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Edison Federal Savings Association, New York, New York on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29216 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Association of Nacogdoches; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings Association of Nacogdoches, Nacogdoches, Texas on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29217 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

First Southwest Federal Savings and Loan Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Southwest Federal Savings and Loan Association, Tyler, Texas on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29218 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

First Savings Association, F.A.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Savings Association, F.A., Paragould, Arkansas, on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29219 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

Liberty Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Liberty Federal Savings Bank, Montebello, California on November 16, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington.

Executive Secretary.

[FR Doc. 90–29220 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

Tuskegee Savings and Loan Association, F.A.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Tuskegee Savings and Loan Association, F.A., Tuskegee, Alabama, on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29221 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

Charter Savings Bank, F.S.B.; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Charter Savings Bank, F.S.B., Newport Beach, California with the Resolution Trust Corporation as sole Receiver for the Association on November 30, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29222 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

Edison Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision had duly appointed the Resolution Trust Corporation as sole Receiver for Edison Federal Savings and Loan Association, New York, New York on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29223 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Association, Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association, Paragould, Arkansas, Docket No. 3495, on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29244 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Association of Nacogdoches; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Nacogdoches, Nacogdoches, Texas on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29225 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

First Louisiana Federal Savings Bank, F.A.; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Louisiana Federal Savings Bank, F.A., Lafayette, Louisiana, Docket No. 8691, with the Resolution Trust Corporation as sole Receiver for the Association on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–29226 Filed 12–12–90; 8:45 am]

BILLING CODE 6720–01–M

First Savings Association of Southeast Texas; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Savings Association of Southeast Texas, Silsbee, Texas, Docket No. 7486, on November 30, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29227 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

First Southwest Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Southwest Savings and Loan Association, Tyler, Texas, OTS Docket No. 7510, on November 29, 1990.

Dated: December 6, 1990.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29228 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

Liberty Federal Bank, F.S,B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Liberty Federal Bank, F.S.B., Montebello, California on November 16, 1990.

Dated: December 6, 1990.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29229 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

Madison Guaranty Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Madison Guaranty Savings and Loan Association, McCrory, Arkansas, Docket No. 7601, on November 29, 1990.

Dated: December 6, 1990.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29230 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

Tuskegee Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Tuskegee Federal Savings and Loan Association, Tuskegee, Alabama, Docket No. 4793, on November 29, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29231 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

Western Gulf Savings and Loan Association; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Western Gulf Savings and Loan Association, Bay City, Texas with the Resolution Trust Corporation as sole Receiver for the Association on November 15, 1990.

Dated: December 6, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-29232 Filed 12-12-90; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 240
Thursday, December 13, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, December 18, 1990, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes
Election of Officers for 1991
A. Election of Chairman
B. Election of Vice Chairman
Advisory Opinion 1990–14—Michael A. Nemeroff on behalf of the American Telephone & Telegraph Company and its subsidiary, AT&T Communications, Inc.
Regulations: Public Financing of Presidential Primary and General Election Candidates: Notice of Proposed Rulemaking
Proposed Revisions to Directive 3, Debt Settlement Procedures
Administrative Matters

DATE AND TIME: Tuesday, December 18, 1990, to Convene After Open Meeting.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 376–3155.

Hilda Arnold,
Administrative Assistant, Office of the Secretariat.

[FR Doc. 90–29384 Filed 12–11–90; 3:08 pm]
BILLING CODE 6715–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Tuesday, December 18, 1990.

PLACE: Federal Trade Commission Building, room 532, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public

(1) Oral Argument in AHS West and Ukiah Adventist Hospital, Docket 9234.

Portions Closed to the Public

(2) Executive Session to follow Oral Argument in AHS West and Ukiah Aventist Hospital, Docket 9234.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179, Recorded Message: (202) 326–2711.

Donald S. Clark,
Secretary.

[FR Doc. 90–29362 Filed 12–11–90; 1:19 pm]
BILLING CODE 6750–01–M

federal register

Thursday
December 13, 1990

Part II

Department of the Interior

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

November 28, 1990.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (Formerly 25 CFR 54.8(a)) notice is hereby given that the:

Yuchi Tribal Organization, Inc., c/o Al Rolland, P.O. Box 1990, 30 N. Water Street, Sapulpa, Oklahoma 74067.

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on October 5, 1990, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's file. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 90–29139 Filed 12–12–90; 8:45 am]

BILLING CODE 4310–02–M

federal register

Thursday
December 13, 1990

Part III

Environmental Protection Agency

40 CFR Part 60

Amendments to Standards of Performance for New Stationary Sources; Reporting Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3779-1]

Amendments to Standards of Performance for New Stationary Sources; Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions to the reporting requirements for certain facilities subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources (in particular subparts A, D, EE, MM, RR, SS, TT, WW, and HHH) were proposed in the Federal Register on September 29, 1987 (52 FR 36440). Today's action promulgates revisions to the affected subparts in order to be consistent with the current EPA reporting frequency policy. Today's action also amends Subpart A to require the submission of a summary excess emission and monitoring system performance (MSP) report form. Amending these subparts will not change monitoring or recordkeepiang requirements of the affected facilities. The effect of the amendments is to reduce the reporting burden and to provide EPA sufficient information to carry out effective monitoring and enforcement.

DATES: Effective Date: December 13, 1990.

Judicial Review: Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A-85-01, containing information considered by EPA in the development of the promulgated standards, is available for public inspection between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M-1500, first floor, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Ms. Amanda Agnew, Standards Development Branch, Emission Standards Division, (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5568 or (919) 541-5268.

SUPPLEMENTARY INFORMATION:

I. Background for Final Amendment

Rationale for Revised Reporting Frequencies

In 1985, EPA reviewed the information collection requirements and reporting frequencies for new source performance standards (NSPS). As a result of that review, the policy under which EPA determines reporting frequencies for NSPS was developed and published in the Federal Register as part of the preamble for proposed standards of performance for fluid catalytic cracking unit regenerators (November 8, 1985 50 FR 46464). The policy deals with three types of continuous monitoring system (CMS) information collected by the enforcing agency: Direct compliance information, monitored parameter data, and excess emission data as measured by CMS. Direct compliance information is most useful to an enforcement agency because the sources' compliance status is evident from the information itself, and no further testing is necessary for documentation. Direct compliance includes the CMS data collected by NSPS sources pursuant to regulations specifying CMS as the compliance method. Direct compliance also includes data collected where the State implementation plan (SIP) or a federally-enforceable permit or order specifies CMS as the compliance method. In these situations, EPA can use CMS data to directly enforce the governing regulation. Because the most current data available are useful for enforcement purposes, sources will be required to report direct compliance information to EPA on a quarterly basis. However, as provided for in the individual subparts, if no exceedances of the standard have occurred nor any CMS downtimes have occurred during the reporting period (quarterly or semiannually), only a statement to that effect (negative declaration) is needed. This new policy helps focus the resources both of the industry and of EPA sources where remedial action is warranted.

The other types of CMS information (*i.e.*, the monitored parameter data and the CMS excess emission data) can be used by EPA in enforcement actions to prove violations of the operating and maintenance (O&M) and monitor performance requirements (*e.g.*, 60.11 (d)) and, among other things, to issue notices of violation or as indicators of the magnitude and duration of emissions violations. The new policy states that reporting frequencies of these data should be reviewed regulation-by-regulation and without evidence for more frequent reporting, semiannual reporting will be required.

In order to implement the new policy, amendments to subparts A, D, EE, MM, RR, SS, TT, WW, and HHH were proposed for comment in the Federal Register on September 29, 1987. The amendments are described below.

II. The Standards

Amendment to General Provisions

The EPA is amending the General Provisions (subpart A) of 40 CFR part 60. The General Provisions specify procedures and definitions that apply to all owners and operators of air pollution sources covered by NSPS. Currently, under 40 CFR 60.7(c), owners and operators of certain affected facilities required to install and operate CMS must submit a written report of excess emissions and MSP to the Administrator every calendar quarter. Generally, except for Subpart D, today's action reduces the frequency of submission of excess emission and MSP reports required by paragraph 60.7(c) from quarterly to semiannually. It is EPA's judgment that less frequent reporting will have no effect upon the utility of the data which may be obtained from such reports and that the effects upon enforcement of NSPS would be minimal. However, if the Administrator or his designated agent judges that more frequent reporting is needed from owners or operators of some affected facilities, he may so require, either by requests or administrative orders for particular sources, or by regulation for classes or categories of sources.

This revision also reduces to semiannual the excess emission and MSP reporting requirements for the following subparts and affected facilities: Subpart G—Nitric Acid Plants; Subpart H—Sulfuric Acid Plants; Subpart J—Petroleum Refineries (except SO_2 excess emission data); Subpart AA—Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974, and on or before August 17, 1983; Subpart BB—Kraft Pulp Mills; Subpart CC—Glass Manufacturing Plants; Subpart GG—Stationary Gas Turbines; Subpart HH—Lime Manufacturing Plants; and Subpart NN—Phosphate Rock Plants.

Two additional changes to § 60.7 have been made since proposal to assist EPA in its report evaluations. These are the requirements to report process operating time during the reporting period and to submit a summary excess emission and

MSP report form in lieu of the more detailed report currently required in § 60.7(c). These changes are discussed in section III of this preamble.

Clarification in Applicability Provisions of General Provisions

A paragraph has been added to the applicability provisions of the general provisions for NSPS. The added provisions simply clarify that sources which commenced construction or modification before a revised standard became applicable (usually the publication date of the proposed revised standard) are not subject to the revised NSPS.

This clarification is being made to the applicability provisions (40 CFR 60.1) of the NSPS General Provisions as part of a settlement agreement between EPA and the Portland Cement Association (PCA), American Iron and Steel Institute, and American Mining Congress (*Portland Cement Association* vs. *EPA*, D.C. Cir. No. 89-1004). This provision clarifies EPA's position that it is not asserting authority under section 111 to apply new or more stringent emission limitations or emission controls to sources which commenced construction prior to the proposal of such new or more stringent emission limitations or controls.

On February 10, 1989, PCA, *et al.*, filed an administrative petition with EPA requesting reconsideration of a final rule amending the NSPS for Portland cement plants [December 14, 1988 (53 FR 50354)]. The revisions were related to the monitoring, recordkeeping and reporting requirements associated with the NSPS, but no changes were made to the emission limits for Portland cement plants. The revisions required that each owner or operator subject to the NSPS install and operate a continuous opacity monitoring system within 180 days of promulgation of the revisions, *i.e.*, June 12, 1989. These requirements were imposed on existing NSPS sources [plants constructed, modified, or reconstructed after August 17, 1971 (36 FR 15704)] under the authority of section 114 of the CAA. Section 114 gives EPA broad authority to impose monitoring, recordkeeping, and reporting requirements on a broad category of emission sources, including existing sources. The petitioners' arguments that EPA was unjustified in applying the revisions to the existing Portland cement plants were not supported by new information of central relevance. Therefore, the petition for reconsideration of the December 1988 revisions to the NSPS was denied [June 28, 1989 (54 FR 27166)].

The EPA has agreed, however, to promulgate the clarification in the applicability provisions of the General Provisions for NSPS as discussed earlier. This language follows closely the existing applicability language for NSPS and is consistent with section 111(a)(2) of the CAA.

Amendment to Subpart D

The EPA is also amending Subpart D—Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971. The facilities affected by subpart D are large sources of sulfur dioxide and nitrogen oxides emissions and MSP. Section 60.45(g) currently requires quarterly reporting of excess emissions. The previously discussed amendment § 60.7(c) of the General Provisions will change the reporting to semiannual. However, since facilities affected by subpart D are some of the largest individual sources of sulfur dioxide, nitrogen oxides, and particulates, anything less than quarterly reporting may result in an unreasonably high level of emissions or poor MSP before corrective action can be taken. Also, quarterly reporting will involve only a minor burden on the source, since, in almost all cases, excess emission and MSP reports will be stored in a computer system and analyzed automatically. Therefore, EPA has determined that quarterly reporting is appropriate for those sources affected by subpart D. Consequently, EPA is amending subpart D, § 60.45(g) so that current requirements for quarterly excess emission and MSP reports remain the same.

Amendment to Surface Coating Standards

In order to be consistent with the new reporting policy, EPA is also amending several standards of performance for surface coatings (i.e., subparts EE, MM, RR, SS, TT, WW, and HHH). These subparts currently require monthly compliance tests and monitoring of control device parameters, but the reporting requirements vary from reporting initial performance test results to monthly reporting of exceedances. The data resulting from the monthly compliance tests are direct compliance information which may be used by the enforcement agency as the sole or direct evidence of a violation of the emission standard; therefore, it is important to have the most recent data available. As a result, sources should report these data quarterly if an exceedance of the standard has occurred and semiannually otherwise. Monitored parameter data, which can be used as proof of non-emissions violations (*e.g.*, § 60.11(d)) and also to indicate the magnitude and duration of emissions violations, need to be submitted semiannually unless otherwise required by the Administrator.

Therefore, EPA is amending the surface coating standards to require quarterly reporting when the results of the monthly compliance tests show emissions exceeding the standard, and to require semiannual reporting if no exceedances or monitoring deficiencies occur, and to require semiannual reporting of monitored parameter data.

III. Changes Since Proposal

Two revisions have been added to the September 29, 1987 proposal. These revisions further enhance EPA's enforcement ability and reduce the burden to the industry.

Duration of Operation

The reporting requirements of 40 CFR 60.7 do not require a source to report the duration of operation of the process during the reporting period. This information is used by agencies to determine the percentage of total operating time that a source was not in compliance and is essential for determining follow-up action. For example, if two sources have the same period of excess emissions during a reporting period, but Source A was operating for half the time of Source B, this indicates that Source A may have more serious emission control or operation problems and merits more timely attention by the regulatory agency. This information is readily available to sources and is essential to meaningful agency analysis and use of CMS data. Therefore, § 60.7 is revised to require submittal of the process operating time during the reporting period.

Summary Report Form

Agency experience has shown that source submittal of summary CMS data may benefit the source, agencies, and the environment. A summary form simplifies the reporting requirement for the source and makes the source analyze its overall compliance status prior to the agency analysis and compliance evaluation. This action should result in better response to the control of emissions or MSP by the source under its obligations of 40 CFR 60.11(d) through early detection and follow-up to violations. Therefore, § 60.7 has been revised to allow sources to submit a summary excess emission and MSP report form as follows:

Sources shall submit one summary report form per pollutant monitored at each affected facility if the total duration of excess

emissions is less than 1 percent of the total operating time for the reporting period and if the total duration of CMS downtime is less than 5 percent of the total operating time for the reporting period. If either one of these stipulations is not met, sources are required to submit the summary report form and the complete excess emission report as is currently required in § 60.7(c). If necessary, the appropriate enforcement agency has the authority to request and obtain additional data at any time, including the more complete reports.

Figure 1 has been added to § 60.7 and should be used as the summary report form unless otherwise specified by the appropriate enforcement agency.

Sources have been required to submit the data (excess emissions and MSP data) since 1975. However, the report had previously been called an "excess emission report." Because of its name, many source and agency personnel assumed that it was supposed to include only excess emissions and not monitor performance data. In order to minimize the possibility that such misunderstandings will continue to occur, the report's name is hereby changed to "Excess Emissions and Monitoring Systems Performance Report," and the report title and definition will be added to § 60.2 (definitions).

IV. Public Participation

The standards were proposed and published in the **Federal Register** on September 29, 1987 (52 FR 36440). Public comments were solicited at the time of proposal, and the docket was made available for inspection. The comment period ended on October 26, 1987. Four letters were received, but did not result in significant changes to the recommended standards.

V. Significant Comments

All comments and responses have been summarized below. The numbers in parentheses with each comment are the docket numbers. These numbers locate the comment letter in Docket No. A–85–01.

One commenter recommended extending the reporting deadline from 30 days to 60 days after the reporting interval.

As a result of this revision, § 60.7(c) of the Code of Federal Regulations states that "* * * All semiannual reports shall be postmarked by the 30th day following the end of each calendar half * * *" The EPA feels that 30 days is an adequate amount of time to prepare and submit the report. This is particularly true since, in most cases, the owner or operator can begin preparing the report whenever the excess emissions or poor MSP occurs and would not have to wait until the 6-month period has ended.

Another commenter wants EPA to clearly identify whether CMS data constitutes a violation of the standard. The commenter cites a State program where fines through settlement agreements are based on CMS reporting. The commenter also states that certain enforcement agency representatives have alleged that a violation must be determined by stack testing in accordance with published EPA procedures adopted into State programs.

The EPA can apply CMS data to a variety of important enforcement issues, irrespective of whether the legal requirements being enforced specify CMS as the compliance method. Where CMS is the specified compliance method in the regulations, permits, orders, or established in the SIP, EPA uses CMS data alone to: (1) Devise a priority list for inspections; (2) issue Notices of Violation (NOV's) to SIP sources or Findings of Violation (FOV's) to non-SIP sources; (3) document a SIP violation extending 30 days beyond the date of the NOV; (4) quantify the magnitude and/or duration of a violation or exceedance; (5) issue an administrative order under section 113(a); (6) issue a notice of noncompliance under section 120; (7) refer a case to the Justice Department for civil or criminal prosecution; or (8) prove a violation in civil or criminal litigation.

Where CMS is not the specified emissions compliance method, EPA utilizes the data collected in any of the first four enforcement uses outlined in the preceding paragraph. If, on the basis of CMS data alone, EPA issues an NOV and the source then fails to come into compliance, a second NOV is not necessary provided that a sufficient relationship exists between the CMS data and the compliance method data. For enforcement actions against sources affected by a regulation which specifies a compliance method other than CMS, EPA would rely on compliance method tests or inspections and other information available to the Agency, to prove a violation of the emissions limit.

Whether or not a compliance method is stated in the regulations, EPA can use CMS data alone to enforce non-emissions requirements, such as O&M, monitoring, recordkeeping, and reporting requirements of NSPS regulations, SIP's, and federally-enforceable orders and permits. For example, 40 CFR 60.11(d) establishes a general "good practices" O&M requirement which identifies no specific compliance method, but states that "the determination of whether acceptable * * * procedures are being used will be based on information * * * which may include, but is not limited to, monitoring results * * *".

With regard to the commenter's citation of a State program where settlement agreements assess fines based on CMS reporting, EPA affirms that States have the authority through their SIP programs to choose alternative compliance options, including basing fines on CMS reports.

The same commenter also wants EPA to revisit the concept of revising the 100 percent compliance requirement even during startup and malfunction.

The EPA realizes that, in certain circumstances, sources which ordinarily would comply with the standards may unavoidably release pollutants in excess of the standards. Thus, unless specified otherwise in a particular subpart, EPA does not require 100 percent compliance during startup, shutdown, or malfunction periods. For the purposes of a performance test conducted in accordance with § 60.8, EPA set forth three limited exceptions to full compliance: "operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard."

This language does not imply, however, that a source can continue to operate after a malfunction, as defined in 40 CFR 60.2, is detected. Under 40 CFR 60.11(d), a source is required to, "at all times, including periods of startup, shutdown, and malfunction * * * to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions." The preamble to the promulgation of § 60.11(d), 38 FR 28565, addressed the concern that this section may permit sources to continue operating after malfunctions were detected: "The provision (of this section) requires that good O&M practices be followed, and thereby, precludes continued operation in a malfunctioning condition."

One commenter encourages EPA to examine all required periodic reports to see if their frequency of submission can also be reduced.

The EPA is required by section 111(b)(1)(B) of the CAA to review NSPS every 4 years. During these reviews, EPA examines all aspects of the standards for possible revision. This

includes a review of the reporting and recordkeeping requirements of the standards. Any revisions to the reporting and recordkeeping requirements resulting from these reviews would be proposed and then promulgated in the **Federal Register.**

Another commenter is concerned with EPA's claim that in the future, EPA may determine that CMS excess emission data may also be used for direct enforcement. They stress that before such a rulemaking, EPA would need to examine the original technical basis and intent for the NSPS at issue and then develop an averaging time for the standard that reflects that original basis and intent. They feel EPA should only change current regulatory requirements through notice and comment rulemaking.

If EPA policy concerning the use of excess emissions data were to be changed, EPA would notify the public through a **Federal Register** notice. The notice would provide the rationale for any modifications made to the existing policy.

Another commenter urges EPA to reconsider the need for quarterly reporting by the utility industry. They write that many utility sources are located in rural areas and the potential for severe adverse impacts from excess emissions or poor MSP would be minimal. They state that the utility industry has an excellent record in minimizing excess emissions and operating monitoring systems. They feel there is no reason to single out all subpart D sources and impose more burdensome reporting requirements on those sources than on other sources regulated under 40 CFR part 60.

As stated in the preamble to the proposed revision, EPA feels that since subpart D sources are some of the largest individual sources of sulfur dioxide, nitrogen oxides, and particulates, quarterly reporting is more appropriate for these facilities. However, EPA has not singled out subpart D sources. As NSPS for other source categories are developed or reviewed, each source category will be examined to determine if that source category also warrants quarterly excess emissions reporting.

VI. Administrative

The docket is an organized and complete file of all the information submitted to, or otherwise considered in the development of this proposed rulemaking. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review (section 307(d)(7)(A)).

The effective date of these amendments is December 13, 1990. Section 111 of the CAA provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities described herein.

Frequency of reporting requirements will be reviewed with each subpart as they are reviewed every 4 years from the date of promulgation as required by the CAA. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in CMS technology, and reporting requirements.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and have been assigned OMB control numbers 2060–0106, 0034, 0004, 0108, 0107, 0001, and 0059 for subparts EE, MM, RR, SS, TT, WW and HHH respectively.

Public reporting burden resulting from this rulemaking is estimated to decrease a total of 17,860 hours for those facilities regulated under subparts G, H, J, AA, BB, CC, GG, HH, MM, and NN where the frequency of reporting is changed from quarterly to semiannual. Other standards (subparts EE, RR, SS, TT, WW, and HHH) will experience a total increase of 18,000 hours due to a change from no reporting to semi-annual. All standards affected by this rulemaking will experience a marginal increase in burden to prepare the summary report form (a total of 1,075 hours across all facilities and subparts). Time required to record total process operating time is considered a "usual and customary" burden as defined under 5 CFR 1320.7 and, as such, is not factored into our estimates of public recordkeeping and reporting burden. The net change in burden from these changes is an increase of 1,214 hours. A specific breakdown of these changes is provided in the Information Collection Request (ICR) (EPA ICR #996) and is available from EPA by calling Sandy Farmer at (202) 382–2740.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs (Paperwork Reduction Project (2060–0106, 0034, 0004, 0108, 0107, 0001, and 0059)), Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis (RIA). The EPA has determined that these amendments to the General Provisions and subparts D, EE, MM, RR, SS, TT, WW, and HHH would result in none of the adverse economic effects set forth in section 1 of the Executive Order as grounds for finding a regulation to be a "major rule." The EPA has, therefore, concluded that this regulation is not a "major rule" under the Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The CAA specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Electric power plants, Intergovernmental relations, Reporting and recordkeeping requirements, Can surface coating, Fossil-fuel-fired steam generators, Synthetic fibers.

Dated: November 20, 1990.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, 40 CFR part 60 is amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. Section 60.1 is amended by designating the existing introductory paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 60.1 Applicability.

* * * * *

(b) Any new or revised standard of performance promulgated pursuant to section 111(b) of the Act shall apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of such new or revised standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

3. By adding in alphabetical order to § 60.2 the definition "Excess Emissions and Monitoring Systems Performance Report" to read as follows:

§ 60.2 Definitions.

* * * * *

Excess Emissions and Monitoring Systems Performance Report is a report that must be submitted periodically by a source in order to provide data on its compliance with stated emission limits and operating parameters, and on the performance of its monitoring systems.

* * * * *

4. In § 60.7: 1. Paragraph (c) introductory text is revised. 2. Paragraph (c)(1) is revised. 3. Paragraphs (d), (e), and (f) are redesignated as paragraphs (e), (f), and (g) respectively. 4. Paragraph (d) is added. 5. Add figure 1 at the end of § 60.7(d).

§ 60.7 Notification and recordkeeping.

* * * * *

(c) Each owner or operator required to install a continuous monitoring system (CMS) or monitoring device shall submit an excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and/or a summary report form (see paragraph (d) of this section) to the Administrator semiannually, except when: more frequent reporting is specifically required by an applicable subpart; or the CMS data are to be used directly for compliance determination, in which case quarterly reports shall be submitted; or the Administrator, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source. All reports shall be postmarked by the 30th day following the end of each calendar half (or quarter, as appropriate). Written reports of excess emissions shall include the following information:

(1) The magnitude of excess emissions computed in accordance with § 60.13(h), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions. The process operating time during the reporting period.

* * * * *

(d) The summary report form shall contain the information and be in the format shown in figure 1 unless otherwise specified by the Administrator. One summary report form shall be submitted for each pollutant monitored at each affected facility.

(1) If the total duration of excess emissions for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report form shall be submitted and the excess emission report described in § 60.7(c) need not be submitted unless requested by the Administrator.

(2) If the total duration of excess emissions for the reporting period is 1 percent or greater of the total operating time for the reporting period or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, the summary report form and the excess emission report described in § 60.7(c) shall both be submitted.

Figure 1—Summary Report—Gaseous and Opacity Excess Emission and Monitoring System Performance

Pollutant (Circle One—SO_2/NO_X/TRS/H_2S/CO/Opacity)

Reporting period dates: From ______ to ______

Company:

Emission Limitation ______

Address:

Monitor Manufacturer and Model No. ______

Date of Latest CMS Certification or Audit ______

Process Unit(s) Description:

Total source operating time in reporting period [1] ______

Emission data summary [1]	CMS performance summary [1]
1. Duration of excess emissions in reporting period due to:	1. CMS downtime in reporting period due to:
a. Startup/shutdown	a. Monitor equipment malfunctions
b. Control equipment problems	b. Non-Monitor equipment malfunctions
c. Process problems	c. Quality assurance calibration
d. Other known causes	d. Other known causes
e. Unknown causes	e. Unknown causes
2. Total duration of excess emission	2. Total CMS Downtime
3. Total duration of excess emissions × (100) [Total source operating time]. % [2]	3. [Total CMS Downtime] × (100) [Total source operating time] % [2]

[1] For opacity, record all times in minutes. For gases, record all times in hours.

[2] For the reporting period: If the total duration of excess emissions is 1 percent or greater of the total operating time or the total CMS downtime is 5 percent or greater of the total operating time, both the summary report form and the excess emission report described in § 60.7(c) shall be submitted.

On a separate page, describe any changes since last quarter in CMS, process or controls. I certify that the information contained in this report is true, accurate, and complete.

______

Name

______

Signature

______

Title

______

Date

* * * * *

5. By revising paragraph (g) introductory text of § 60.45 to read as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(g) Excess emission and monitoring system performance reports shall be submitted to the Administrator for every calendar quarter. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter. Each excess emission and MSP report shall include the information required in § 60.7(c). Periods of excess emissions and monitoring systems (MS) downtime that shall be reported are defined as follows:

* * * * *

6. In § 60.315: 1. Paragraph (b) is revised. 2. Paragraph (c) is redesignated as paragraph (d). 3. New paragraph (c) is added. 4. OMB control number is added to the end of the section.

§ 60.315 Reporting and recordkeeping requirements.

* * * * *

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a written report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.312. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit at the frequency specified in § 60.7(c) the following:

(1) Where compliance with § 60.312 is achieved through the use of thermal incineration, each 3-hour period when metal furniture is being coated during which the average temperature of the device was more than 28 °C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.313.

(2) Where compliance with § 60.312 is achieved through the use of catalytic incineration, each 3-hour period when metal furniture is being coated during which the average temperature of the device immediately before the catalyst bed is more than 28 °C below the average temperature of the device immediately before the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.313. Additionally, when metal furniture is being coated, all 3-hour periods during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference across the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.313 will be recorded.

(3) For thermal and catalytic incinerators, if no such periods as described in paragraphs (c)(1) and (c)(2) of this section occur, the owner or operator shall state this in the report.

* * * * *

(Approved by the Office of Management and Budget under control number 2060–0106)

7. In § 60.395: 1. Paragraph (b) is revised. 2. Paragraph (c) is revised. 3. OMB control number is added to the end of the section.

§ 60.395 Reporting and recordkeeping requirements.

* * * * *

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a written report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.392. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually. Where compliance is achieved through the use of a capture system and control device, the volume-weighted average after the control device should be reported.

(c) Where compliance with § 60.392 is achieved through the use of incineration, the owner or operator shall continuously record the incinerator combustion temperature during coating operations for thermal incineration or the gas temperature upstream and downstream of the incinerator catalyst bed during coating operations for catalytic incineration. The owner or operator shall submit a written report at the frequency specified in § 60.7(c) and as defined below.

* * * * *

(Approved by the Office of Management and Budget under control number 2060–0034)

8. In § 60.447: 1. Paragraph (b) is revised. 2. Paragraph (c) is redesignated as paragraph (d). 3. New paragraph (c) is added.

§ 60.447 Reporting requirements.

* * * * *

(b) Following the initial performance test, the owner or operator of each affected facility shall submit quarterly reports to the Administrator of exceedances of the VOC emission limits specified in § 60.442. If no such exceedances occur during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) The owner or operator of each affected facility shall also submit reports at the frequency specified in § 60.7(c) when the incinerator temperature drops as defined under § 60.443(e). If no such periods occur, the owner or operator shall state this in the report.

* * * * *

9. In § 60.455: 1. Paragraph (b) is revised. 2. Paragraph (c) is redesignated as paragraph (d). 3. New paragraph (c) is added. 4. OMB control number is added to the end of the section.

§ 60.455 Reporting and recordkeeping requirements.

* * * * *

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a written report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.452. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit at the frequency specified in § 60.7(c) the following:

(1) Where compliance with § 60.452 is achieved through use of thermal incineration, each 3-hour period of coating operation during which the average temperature of the device was more than 28 °C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.453.

(2) Where compliance with § 60.452 is achieved through the use of catalytic incineration, each 3-hour period of coating operation during which the average temperature recorded immediately before the catalyst bed is more than 28 °C below the average temperature at the same location during the most recent performance test at which destruction efficiency was determined as specified under § 60.453. Additionally, all 3-hour periods of coating operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference across the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.453 will be recorded.

(3) For thermal and catalytic incinerators, if no such periods as described in paragraphs (c)(1) and (c)(2) of this section occur, the owner or operator shall state this in the report.

* * * * *

(Approved by the Office of Management and Budget under control number 2060–0108)

10. In § 60.465: 1. Paragraph (c) is redesignated as paragraph (e). 2. New paragraphs (c) and (d) are added.

3. OMB control number is added to the end of the section.

§ 60.465 Reporting and recordkeeping requirements.

* * * * *

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record,

and submit a written report to the Administrator every calendar quarter of each instance in which the volume-weighted average of the local mass of VOC's emitted to the atmospheric per volume of applied coating solids (N) is greater than the limit specified under § 60.462. If no such instances have occurred during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(d) The owner or operator of each affected facility shall also submit reports at the frequency specified in § 60.7(c) when the incinerator temperature drops as defined under § 60.464(c). If no such periods occur, the owner or operator shall state this in the report.

* * * * *

(Approved by the Office of Management and Budget under control number 2060-0107)

11. In § 60.495: 1. Paragraph (b) is revised. 2. Paragraphs (c) and (d) are redesignated as (d) and (e).

3. New paragraph (c) is added.

§ 60.495 Reporting and recordkeeping requirements.

* * * * *

(b) Following the initial performance test, each owner or operator shall identify, record, and submit quarterly reports to the Administrator of each instance in which the volume-weighted average of the total mass of VOC per volume of coating solids, after the control device, if capture devices and control systems are used, is greater than the limit specified under § 60.492. If no such instances occur during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit at the frequency specified in § 60.7(c) the following:

(1) Where compliance with § 60.492 is achieved through the use of thermal incineration, each 3-hour period when cans are processed, during which the average temperature of the device was more than 28°C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.493.

(2) Where compliance with § 60.492 is achieved through the use of catalytic incinerator, each 3-hour period when cans are being processed, during which the average temperature of the device immediately before the catalyst bed is more than 28°C below the average temperature of the device immediately before the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.493 and all 3-hour periods, when cans are being processed, during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference across the catalyst bed during the most recent performance test at which destruction efficiency was determined as specified under § 60.494.

(3) For thermal and catalytic incinerators, if no such periods as described in paragraphs (c)(1) and (c)(2) of this section occur, the owner or operator shall state this in the report.

* * * * *

12. In § 60.604: 1. Paragraph (a)(2) is revised.

§ 60.604 Reporting requirements.

(a) * * *

(2) The results of subsequent performance tests that indicate that VOC emissions exceed the standards in § 60.602. These reports shall be submitted quarterly at 3-month intervals after the initial performance test. If no exceedances occur during a particular quarter, a report stating this shall be submitted to the Administrator semiannually.

* * * * *

[FR Doc. 90-29111 Filed 12-12-90; 8:45 am]

BILLING CODE 6560-50-M

Reader Aids

Federal Register

Vol. 55, No. 240

Thursday, December 13, 1990

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: The list of Public Laws for the second session of the 101st Congress has been completed and will resume when bills are enacted into law during the first session of the 102d Congress, which convenes on January 3, 1991.

A cumulative list of Public Laws for the second session was published in Part II of the **Federal Register** on December 10, 1990.